

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION

4 UNITED STATES OF AMERICA | DOCKET 4:20-CR-318

5 VS. | SEPTEMBER 29, 2022

6 KEITH TODD ASHLEY | 8:58 A.M.

7 -----
8 SHERMAN, TEXAS

9 VOLUME 4 OF 8, PAGES 823 THROUGH 1100

10 REPORTER'S TRANSCRIPT OF JURY TRIAL

11 BEFORE THE HONORABLE AMOS L. MAZZANT, III,
12 UNITED STATES DISTRICT JUDGE, AND A JURY

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1 (Open court, defendant present, jury not present.)

2 THE COURT: Okay. Please be seated.

3 It's my understanding we have a couple issues to
4 address before we bring the jury in?

5 MS. RATTAN: Yes, your Honor.

6 MR. WHALEN: Your Honor, I think the main issue we
7 want to take up is as it relates to the crime scene photos
8 that they intend to offer. Let me see if we -- we had any
9 agreements. No, we didn't.

10 So we just want to make sure the Court can look at
11 those exhibits and then make our objections and then that
12 way we don't have to renew them -- we can just renew them
13 in front of the jury.

14 THE COURT: Okay. What are the issues and which
15 exhibits?

16 MR. WHALEN: Your Honor, do you want -- can we
17 just give you the exhibit and then tell you the pages that
18 are relevant to it? What works best for you?

19 THE COURT: That's fine.

20 MR. WHALEN: It's Exhibit 79.

21 THE COURT: Okay.

22 MR. WHALEN: Okay. So we are objecting to
23 page 25.

24 THE COURT: Okay. Why?

25 MR. WHALEN: It's prejudicial.

1 THE COURT: Well, I'm going to overrule that
2 objection. I mean, it's --

3 MR. WHALEN: Okay. We're objecting to page 26.

4 THE COURT: Ms. Rattan or Mr. Fine?

5 MR. FINE: Your Honor --

6 THE COURT: If you'll turn your mic on.

7 MR. FINE: I can tell you globally with these
8 photos, your Honor. There were hundreds of crime scene
9 photos. We went through and picked out approximately 42
10 that best showed the crime scene. There is going to be
11 blood. There is going to be pictures that aren't pleasant,
12 but it's a murder so --

13 THE COURT: I understand. I'm going to overrule
14 the objections. I mean, they're not overdone, I mean --

15 MR. WHALEN: All right. Your Honor, just so the
16 record is clear, we are objecting to page 25, 26, 33, 34,
17 35, 36, 37, 38 and then we're objecting to -- as overly
18 prejudicial; and then as far as pages 43, 45, 46, and 47 on
19 hearsay grounds, your Honor.

20 THE COURT: Okay. As to the issue of highly
21 prejudicial, those are overruled. These aren't -- they're
22 part of the story, and so that is not a proper objection.
23 I understand you have to make an objection. It's the only
24 one you have. But there is no basis for that, considering
25 what the charges are in this case.

1 Now, the issue of the hearsay, which ones are
2 those?

3 MR. WHALEN: That's 43, 45, 46, and 47. They are
4 photographs of a phone and text messages.

5 THE COURT: Mr. Fine?

6 MR. FINE: Your Honor, they are the defendant's
7 own statements; so it's an admission by a party opponent.

8 THE COURT: Oh, those are the defendants' --

9 MR. FINE: Yes, your Honor.

10 THE COURT: Okay. That will be overruled.

11 MR. WHALEN: That's all the objections that we
12 needed to take up.

13 THE COURT: Okay. Anything else to take up, then?

14 MR. FINE: No, your Honor.

15 THE COURT: And then one thing just in terms of
16 timing today. The Court has a 1:00 Zoom call with another
17 judge. It won't be more than 30 minutes. So the question
18 is do we go till 12:30 and take a later lunch 12:30 to
19 1:30, or do we just stop at noon and give the jury and
20 everyone an hour and a half lunch? It's really a
21 question -- it seems like we're going quick on time. What
22 are the parties' desires?

23 MS. RATTAN: I think we're doing well on time; so
24 I think if the Court were to do a 1 1/2-hour lunch, that
25 would be fine.

1 MR. WHALEN: I agree, your Honor.

2 THE COURT: Okay. That's fine. I just wanted to
3 consult with y'all. It didn't matter to me.

4 Okay. We can go ahead and bring the jury in.

5 (The jury enters the courtroom, 9:03 a.m.)

6 THE COURT: Please be seated.

7 Welcome back, ladies and gentlemen.

8 Okay. What's next?

9 MR. FINE: United States calls Patrick King, your
10 Honor.

11 THE COURT: Sir, if you'll raise your right hand
12 to be sworn in.

13 (The oath is administered to the witness.)

14 THE COURT: Mr. Fine, go ahead and proceed.

15 MR. FINE: Thank you, your Honor.

16 DIRECT EXAMINATION OF PATRICK KING

17 CALLED ON BEHALF OF THE GOVERNMENT

18 BY MR. FINE:

19 Q. Good morning, Captain King. How are you, sir?

20 A. Good. Thank you.

21 Q. Will you please introduce yourself to the ladies and
22 gentlemen of the jury and spell your first and last name
23 for the court reporter.

24 A. Yes, sir. Good morning. My name is Patrick King,
25 P-A-T-R-I-C-K; last name, King, K-I-N-G.

1 Q. And I called you Captain King. You're retired,
2 correct?

3 A. Yes, sir.

4 Q. Tell the jury what you did up until pretty recently.

5 A. I spent 22 years in the fire service, the last of which
6 14 years was with the Carrollton Fire Rescue Fire
7 Department. I retired a captain.

8 Q. And explain to the jury what -- in terms of a rank of
9 captain, how do you receive that rank?

10 A. So I'm the -- how do you receive it? You promote
11 through the system. You start off as a firefighter. Then
12 you promote to second driver, then to driver, and then
13 ultimately to captain which you are in charge of your own
14 fire station.

15 Q. And in Carrollton how many fire stations are there?

16 A. We have eight fire stations.

17 Q. And are you assigned to one particular station, or do
18 you guys rotate through?

19 A. One station.

20 Q. And what station were you assigned to?

21 A. For this particular call, I was at Fire Station 5.

22 Q. Okay. And are you the captain of that one station?

23 A. Yes, sir.

24 Q. Okay. So there's eight captains total in the --

25 A. There's 24, so there's three shifts, so there's a

1 little bit more than just the eight, one per station.

2 Q. And I was going to ask you about that next, actually.

3 In terms of a firefighter with the Carrollton Fire

4 Department, how does that work in shifts?

5 A. You work a 24-hours-on/48-hour shift schedule. So

6 you'll start at 7:00 a.m. and you'll go until 7:00 a.m. the

7 following shift, following day, and then you'll get 48

8 hours of off time.

9 Q. And so during that 24 hours, you are responding to any
10 calls that may come in pursuant to your station,
11 essentially?

12 A. That and any and all districts. And then also we do a
13 quad-cities response; so we also respond to Addison,
14 Farmers Branch -- I'm drawing a blank here -- Coppell, and
15 then, of course, Carrollton.

16 Q. Is it fair to say it's a pretty busy job?

17 A. Correct. We average about 12,000 calls a year.

18 Q. Now, in terms of your training, let's go back.

19 Fourteen years as a Carrollton firefighter. What did you
20 do before that?

21 A. So I was a contract fireman for Kellogg Brown & Root as
22 a civilian overseas. I worked in Kosovo, Bosnia. I also
23 worked in Afghanistan. And then prior to that, I was in
24 United States Air Force for six years.

25 Q. And did you also receive firefighter training in the

1 Air Force as well?

2 A. Correct. That's when I started my career.

3 Q. And what made you decide to get into that career?

4 A. I just always liked the idea of working that type of
5 work and helping folks and having some sort of meaning
6 behind the job so --

7 Q. And so in total, with your entire career as a
8 firefighter, you're well over 20 years, correct?

9 A. Correct.

10 Q. And when did you retire?

11 A. I retired in April of this year.

12 Q. And where do you currently reside?

13 A. I live in a little town in the Blue Ridge Mountains in
14 the South Carolina called Simpsonville.

15 Q. Are you enjoying retirement?

16 A. It's fantastic.

17 Q. All right. We'll try to get you back to the mountains
18 as quick as possible.

19 A. I'm here for you guys so --

20 Q. So I want to turn your attention to February 19th,
21 2020. Will you tell the jury where you were stationed that
22 day?

23 A. So that day I was at Fire Station 5.

24 Q. And did you receive a call that day?

25 A. So yeah. So we were actually coming back from training

1 from Lewisville; and we were passing through District 2,
2 which is where this call took place. A call came out over
3 the radio. They dispatched the engines and medics from
4 Fire Station 2 for an unresponsive patient.

5 I happened to be listening to the radio, looked at
6 my location, realized I could -- I could beat that engine
7 into the district, called dispatch and said, "Hey, ship me
8 that call. We'll go ahead and take that in lieu of
9 Truck 112," who was responding.

10 Q. So the information you had to respond to the call was
11 an unresponsive person, correct?

12 A. Correct. It just came in as an unresponsive -- it's
13 been a few years; but it was unresponsive elderly male
14 patient, I believe, is how it came in.

15 Q. And so when you hear that, unresponsive male, that
16 could be a lot of different things. Is that fair to say?

17 A. Correct. That's a pretty routine call. Most of the
18 time it's for low blood sugar or it's a mistaken, you know,
19 passed out person or -- it could be a myriad of different
20 things.

21 Q. And so was that call responsive to 2114 Cannes Drive in
22 Carrollton?

23 A. I'm sorry?

24 Q. Was it 2114 Cannes Drive?

25 A. I believe. It's been three years and I don't have the

1 report, but I take it that's the address that we went to.

2 Q. And so when you're responding over there, you're in a
3 fire truck, correct?

4 A. Yes, sir.

5 Q. And I should have asked you this before, but are you
6 also trained in the field of paramedics?

7 A. Correct. Most of the folks that come through the fire
8 department are trained as paramedics.

9 Q. And so on your truck -- you're on the truck. How many
10 other firefighters are on that truck?

11 A. So we were actually on an engine. There is a little
12 bit of difference between the language between a truck and
13 a fire engine. But we were on the engine and there was
14 three of us and I was a paramedic at the time, I believe.
15 I'm trying to remember if I had dropped my patch yet. But
16 pretty sure I was a paramedic at that -- in that time.

17 Q. And so you've got three firefighters including
18 yourself. You're trained as a paramedic.

19 When you responded to the scene, had an ambulance
20 already arrived as well?

21 A. They arrived right about the same time we did, so yes.

22 Q. And is that common for a fire engine or fire truck to
23 show up with an ambulance?

24 A. Every call -- just about every call.

25 Q. And so do you remember how many medics were on that

1 ambulance?

2 A. We always keep two paramedics on the ambulance.

3 Q. Did those two paramedics -- did they get into the house
4 a little bit before you did?

5 A. Correct.

6 Q. And when I say "a little bit," I mean, are we talking a
7 few minutes or literally a few seconds before?

8 A. Few seconds.

9 So typically -- and I'm trying to remember on this
10 call. I know we pulled up roughly the same time.

11 As the officer, I'm pretty hands-off on calls. I
12 kind of supervise and make sure everybody has assignments
13 and everything is being carried out the way it is; and
14 typically I'll make contact with family or friends, whoever
15 called 9-1-1, to gather more information.

16 Q. And did you do that in this case?

17 A. I did. His wife and I believe his son were out on the
18 front porch. When I approached them, everybody else went
19 into the house.

20 Q. And did you speak to them briefly?

21 A. Very briefly. I just -- I'm trying to think. I said
22 something in a consoling matter of, "Hey, we're here.
23 We're going to take over and your loved one is in good
24 hands."

25 Q. Was there any mention at that point about this being a

1 victim of a gunshot wound?

2 A. Not at all, no.

3 Q. And so you're out front. Paramedics go in a few
4 seconds ahead of you. Eventually do you go into the house
5 as well?

6 A. Yes. My conversation with the family was less than
7 5 seconds at most, and then I carried my way back into the
8 house.

9 I believe I asked her where exactly the patient
10 was located so that we could get a better understanding of
11 where I need to go in the house, and then I quickly made my
12 way to the second floor office area where she had stated
13 her husband was.

14 Q. And what did you find in that office?

15 A. So immediately I walked in and two medics were on scene
16 and one of the medics was starting to call -- through
17 protocol I believe he was -- he was basically calling for
18 equipment to begin resuscitative measures.

19 And I saw that there was a gun laying in his hand
20 and there was, you know, an obviously traumatic injury to
21 the person; and I just told everybody, "Hey, stop. Stop
22 what you're doing. There is a gun in his lap."

23 And so everybody stepped back. I walked over to
24 the patient. We confirmed that there was injuries
25 incompatible with life, so we didn't proceed further and --

1 it just looked very odd; so I just said, "Hey, everybody
2 just get out of the room."

3 Because the call came in as an unresponsive
4 patient that the wife had found or somebody had found; and
5 that's pretty atypical to have something that obvious with
6 a gun and a massive head injury, to call that in as an
7 unconscious patient. So things started to not --

8 MR. WHALEN: Objection to the narrative, your
9 Honor.

10 THE COURT: Just ask another question.

11 BY MR. FINE:

12 Q. And so you said you called everybody out of the room?

13 A. Correct.

14 Q. Had -- when you got into the room, was anybody touching
15 the complainant, Mr. Seegan?

16 A. I believe one of the patients (*sic*) may have been
17 checking a carotid pulse to check for a heartbeat.

18 Q. Okay.

19 A. But that's the extent of touching and handling the
20 patient.

21 Q. And is that standard protocol, to check on the neck
22 generally for a pulse?

23 A. Correct.

24 Q. Generally you guys don't check the wrist, correct?

25 A. You can, but in this case they didn't check the hand

1 because they didn't see the gun so they went -- they
2 checked the carotid pulse, I think.

3 Q. And that's actually what I was going to ask next.

4 The paramedics that were there right before you
5 got in, had any of them even seen the gun?

6 A. No, and I was -- that's why I called everybody out of
7 the room; and my first conversation with them was, like,
8 "How did you guys miss this weapon in his lap?"

9 And they hadn't seen it. For some reason they got
10 tunnel vision. I was with a pretty young crew. And so for
11 just a brief moment we said, "Hey, how did you miss that?"
12 And then I said, "Okay. Everybody, you know, get the
13 equipment out of the room. Let's reevaluate what we've got
14 here because now we've got something more serious. Make
15 sure you keep everybody out of the room, family members.
16 Make sure they don't come in the room." And so that's what
17 we -- that's how we proceeded.

18 Q. And at that point it's a potential crime scene,
19 correct?

20 A. Correct.

21 Q. And so it's important to do the best you can --
22 obviously, Goal Number 1 is to save lives, correct?

23 A. Correct.

24 Q. Once you realized that Mr. Seegan -- I should say the
25 patient was James Seegan, correct?

1 A. Correct.

2 Q. Once you realize that he is dead, then Goal Number 2 is
3 preserving the crime scene; is that fair?

4 A. Correct.

5 Q. And so when you got in there, outside of one of the
6 paramedics maybe touching his neck briefly, was anybody
7 else messing with Mr. Seegan's body?

8 A. Not that I'm aware of; and I gave, you know, strict
9 direction as the officer on scene, "Hey, nobody touch him.
10 Nobody touch anything. You know, let's clear the room and
11 get police involved."

12 Q. And did they follow your orders and get out of the
13 room?

14 A. To my knowledge, yes.

15 Q. And did they wait outside until police arrived, at
16 least to your knowledge?

17 A. They either were outside the room or they were pretty
18 distant from the patient so as not to touch anything or
19 step on anything. And I believe I -- me and eventually a
20 police officer were the only ones going back in and out of
21 the room.

22 Q. So you mentioned something wasn't right. When you
23 looked at the scene in that room, what did you notice?
24 What drew your attention? Outside of just the fact that
25 there is a gunshot wound and a gun there --

1 A. Correct.

2 Q. -- tell the jury what you saw.

3 A. So the whole call was odd because it came in as an
4 unconscious patient with somebody who actually made contact
5 with the patient and failed to see the firearm or to convey
6 that information over a 9-1-1 call. So that was the first
7 red flag of something very wrong is going on here if that's
8 the way the call came in. That's a pretty -- pretty big
9 misstep.

10 I say that, but my own guys had missed that as
11 well coming into the room. It was -- the lights were off
12 in the room, but it wasn't quite dark. I think it was
13 twilight, so you could potentially obviously miss something
14 like that.

15 But, more importantly, the gun was laying
16 perfectly in his lap with his hands on it. And so if
17 you've -- and the injury was to the parietal area of the
18 skull, which is up above the ear. So I'm looking at this,
19 thinking -- if you've ever fired a pistol or a handgun --

20 MR. WHALEN: Objection to the narrative.

21 THE COURT: Well, go ahead and ask another
22 question, I mean --

23 BY MR. FINE:

24 Q. So you were discussing what you found to be odd. You
25 mentioned that the gun was basically in his lap, correct?

1 A. Correct.

2 Q. And you mentioned with the positioning of the entrance
3 wound to sort of the back left side of his head; is that
4 correct?

5 A. At the time I didn't even think that was the entrance
6 wound because there was another small hole on the right
7 side of his temple, on the right side. So that kind of
8 threw it all -- the gun is in his left hand on his lap.
9 What appears to be an entry wound is on the right upper
10 side of his head. Then you have a pretty massive head
11 wound with brain tissue exposed on the upper left side.

12 Q. And so -- have you responded to suicides before?

13 A. I have.

14 Q. Have you responded to suicides by gunshot before?

15 A. I have.

16 Q. Through those -- through that experience, did this look
17 similar to those circumstances or different?

18 A. No.

19 Q. And tell the jury what was different about this scene
20 versus those other gunshot suicides.

21 A. I can't recall in -- a lot of that stuff I try to block
22 out with previous calls, but subconsciously I knew it
23 didn't add up.

24 And then, again, the gun would kick out from the
25 head; so it should have been on the floor with his arm -- I

1 mean, it should not have somehow gone from the side of his
2 held, pull the trigger, with the recoil, and then swing
3 around perfectly on his lap in his hand. That didn't add
4 up to me.

5 Q. If you'll take a look --

6 MR. FINE: Your Honor, may I approach the witness?

7 THE COURT: Yes.

8 BY MR. FINE:

9 Q. I think the binder is actually behind you.

10 A. There is a binder right here, sir.

11 Q. Let's see which numbers those are in front of you.

12 Okay. I'm going to have you take a look at
13 State's (*sic*) 79. If you'll open that up and take a look
14 at Photo 25, so page 25 and page 30 on Government's 79.

15 A. Okay, 25. Yes, sir.

16 Q. Did you take a look at 25?

17 A. Yes, sir.

18 Q. And will you take a look at 30 as well on
19 Government's 79?

20 A. Yes.

21 Q. And do those appear to be sort of what you described to
22 the jury, the condition of Mr. Seegan's body and the gun
23 being on his lap in his left hand?

24 A. Correct.

25 MR. FINE: We would offer Government's 79, just

1 Photo 25 and 30 at this time, your Honor.

2 THE COURT: Say the numbers again, please.

3 MR. FINE: It's 25 and 30, your Honor.

4 THE COURT: Okay.

5 MR. WHALEN: Renew our previous objection to 25,
6 your Honor.

7 THE COURT: Overruled. Government's (*sic*) 25 and
8 30 will be admitted.

9 MR. FINE: Permission to publish?

10 THE COURT: Yes. And this is actually Exhibit 79,
11 pages 25 and 30.

12 MR. FINE: 25 and 30, yes, your Honor.

13 BY MR. FINE:

14 Q. All right, Captain King. Looking at Government's 79,
15 page 25, you mentioned the gun being in his left hand and
16 sort of wrapped around the armrest. Is that what we're
17 looking at here?

18 A. Correct.

19 Q. And did this look -- did this look right to you?

20 A. No.

21 MR. FINE: Let's go ahead and look at page 30.

22 BY MR. FINE:

23 Q. And same thing here. This is a close-up of the left
24 hand. Is this what you're talking about, how it's kind of
25 resting on his lap?

1 A. It looks very -- yes. It looks odd.

2 Q. And even in terms of -- so you've got a chair with an
3 armrest, right, two armrests; and his arm is actually
4 wrapped around the outside of the armrest there, correct?

5 A. Correct.

6 Q. Not even dropping down inside.

7 A. So how would that happen?

8 Q. Is that what was going through your mind?

9 A. Exactly. That's exactly what was going through my
10 mind.

11 Q. And then going back to page 25 on Government's 79 --
12 and we'll take a look at that more specifically with later
13 witnesses, but was there a letter that was also found on
14 that desk?

15 A. That was the second -- or one of -- one of many red
16 flags that gave me pause. Yes, there was a -- I remember
17 it just being very short and typed, which didn't add up for
18 somebody if they were going to do this. They would -- I
19 would think they would freehand and sign it. And to log
20 into a computer, create a Word document, type this up, save
21 it, print it, it just seemed like -- again, it added
22 another layer of something that was odd.

23 Q. And, Captain King, you're not just talking as somebody
24 who is just opining. You're somebody that's responded to
25 multiple suicides by gunshot before, correct?

1 A. I have been on suicides by gunshot.

2 Q. And have you seen a note like that on any other --

3 A. Not that I can recall.

4 Q. Okay. What about in terms of other suicides that
5 you've gone out to, the condition of the house? What
6 generally is the condition of the house like in the ones
7 that you've gone to?

8 A. Usually it's unkept (*sic*) and -- you know, starts off
9 with the yard is unkept, the house is unkept, and
10 ultimately, you know, you can kind of see the manifestation
11 of someone's life just kind of spiraling out and then they
12 take their life. So typically it -- from what I can
13 remember, homes are usually not as neat as this home.

14 Q. And was the Seegans' home neat?

15 A. Yes. It was very, very neat.

16 Q. Did you also speak to Mrs. Seegan about which hand --

17 A. Correct.

18 Q. -- James Seegan's --

19 What was his dominant hand?

20 A. So -- yes. As I was looking at everything and things
21 didn't add up, I went down and talked to her and
22 consoled -- tried to console her and her son and started
23 asking some typical questions, "Does your -- did your
24 husband ever suggest suicide or had he been talking about
25 suicide?"

1 She had stated no --

2 MR. WHALEN: Objection as to hearsay, your Honor.

3 MR. FINE: Your Honor, it goes to his state of
4 mind in terms of --

5 THE COURT: Overruled.

6 BY MR. FINE:

7 Q. Go ahead.

8 A. And so kind of went through a checklist, does he have
9 health problems, does he have terminal illnesses, any
10 recent financial problems. And this is things that I have
11 experienced with people who have taken their life
12 usually -- or not usually. They've had one of those that
13 have come up, and that's why I ask those types of
14 questions.

15 And as she's saying no to all these things and I
16 kept thinking about what I thought would be the gunshot
17 wound on the temple with the exit wound on the parietal
18 area and the gun being in his left hand and knowing that a
19 small percentage of the population is left-handed, I then
20 asked her, "Is your husband left- or right-handed?"

21 And she said, "Right-handed."

22 And then I thought, okay, this is really odd,
23 then, because who would -- who would -- you know, the last
24 thing you do on this planet if you're going to take your
25 own life, would you ever use your nondominant hand to do

1 that? And that would strike me as extremely odd or rare.

2 Q. And so February 19th comes and goes. You continue on
3 your career responding to emergencies for the next several
4 months, correct?

5 A. Yes, sir.

6 Q. And eventually did there come a time where the
7 Carrollton Police Department -- where you were in contact
8 with the Carrollton Police Department?

9 A. Correct. And then I ultimately made an affidavit with
10 Detective Bonner on what happened and what I could recall.

11 Q. Had you ever -- had you ever made an affidavit before
12 in a criminal case like this?

13 A. I'm trying to think. I might have done one for a child
14 abuse case years ago, but it's very rare and I can't speak
15 to how many. I know it's rare. I can't recall but maybe
16 one other.

17 Q. And does that just, again, go to the oddness of this
18 entire situation from your vantage point?

19 A. Correct.

20 I talked about this call quite a bit with
21 coworkers and family members, of just how different and odd
22 it was.

23 Q. And did it bother you over --

24 A. Very much.

25 Q. -- those months?

1 A. Correct. It did.

2 MR. FINE: I'll pass the witness.

3 THE COURT: Cross-examination?

4 CROSS-EXAMINATION OF PATRICK KING

5 BY MR. WHALEN:

6 Q. Mr. King, good morning.

7 A. Good morning.

8 Q. Okay. So if I understand correctly, when you arrive at
9 the scene, you encounter Mrs. Seegan and her son, correct?

10 A. Yes, sir.

11 Q. Okay. And in the meantime -- other crew members enter
12 the house at that point, correct?

13 A. Yes, sir.

14 Q. Okay. How many crew members entered the house at that
15 point?

16 A. I know of at least two.

17 Q. Okay. And do they immediately travel upstairs?

18 A. I -- I'm not sure. I'm not sure if they found -- or
19 asked the wife where he was located. So I'm not sure if
20 they went directly to the patient or if they looked
21 downstairs first.

22 Q. Okay. And then eventually you said you enter the
23 house, correct?

24 A. Yes, sir.

25 Q. Okay. And then when you enter the house, you go

1 upstairs to the office, correct?

2 A. Yes, sir.

3 Q. Okay. And at that point how many of your crew members
4 are in the room at that point?

5 A. I believe two or three.

6 Q. Okay. And are they near Mr. Seegan at that time?

7 A. One -- one crew member was, yes.

8 Q. Okay. And from the time you -- they entered that
9 office and the time you got there, how much time elapsed,
10 if you can recall?

11 A. Maybe -- it's hard to say. Maybe 5 to 10 seconds.

12 Q. Okay. But they were already -- one person was already
13 near Mr. Seegan and touching his neck for his pulse,
14 correct?

15 A. I'm -- I'm trying to think. I'm imagining that's what
16 happened because I remember them calling for -- him calling
17 for equipment when I entered the room.

18 Q. Okay. When you say he called for equipment, was he
19 using the radio; or was he yelling out --

20 A. No, he was giving -- so he's the lead paramedic; and so
21 he'll start calling and -- I'm guessing at this point --
22 trying to go down the advanced cardiac life support
23 protocol. And that's where I stopped it.

24 Q. Okay. And so then you asked everybody to back out of
25 the room at that point?

1 A. Yes, sir.

2 Q. Correct, okay.

3 Now, you -- at that point you called law
4 enforcement, right? You called the PD at that point?

5 A. Yes.

6 Q. Okay. Then -- you stated that out of the three
7 paramedics that went in first, none of them saw the
8 firearm, correct?

9 A. I don't believe so.

10 Q. Okay. You were the first one to see the firearm?

11 A. I believe so.

12 Q. Okay. Then when you -- you also testified, too, that
13 when you viewed Mr. Seegan, you thought -- you believed
14 that the entry wound was on the right side of the body --
15 right side of the head, correct?

16 A. I'm -- yes. I'm not an expert, and I only -- just
17 looking at a small hole from what I know of how bullets
18 fragment, if -- it just seemed like the small hole on the
19 right side would make sense as the entry wound and the
20 large avulsion on the left -- upper left parietal area
21 would be the exit wound. But that's just me thinking
22 without any kind of specialization on --

23 Q. Okay. So you don't have any specialized knowledge or
24 anything --

25 A. No, sir.

1 Q. Okay. And when -- you talked about that you've been on
2 suicide calls before. How many have you been on?

3 A. I'd be guessing if I had to say a number. I'm not
4 sure.

5 Q. Okay. Are we less than 50?

6 A. Probably less than -- more than -- more than 5, less
7 than 50.

8 Q. Okay. And so you're basing your opinion based on that
9 subset of less than 50, more than 5, suicides that you've
10 been on, correct?

11 A. I'm basing it on that as well as anecdotally
12 conversations with different officers and folks that I had
13 talked to in the station saying, "Hey, does any of this add
14 up or" --

15 Q. Okay. Well, let me stop you there.

16 When -- you say you talked to people afterwards
17 but --

18 A. Correct.

19 Q. -- you said you had this initial impression --

20 A. Yes, sir.

21 Q. -- when you walked in, correct?

22 A. Correct.

23 Q. Okay. And you were basing that off of less than 50,
24 more than 5, calls that you've been on of suicides,
25 correct?

1 A. Yes.

2 Q. Okay. But you haven't gone out and done any studies
3 yourself and looked at crime scenes and looked at suicides
4 to determine --

5 A. No. It was -- it was just the progression of the call
6 and the positioning of the gun and subconsciously probably
7 some of the things I've picked up over the years on calls
8 such as these.

9 Q. Okay. And so that was your opinion; and that was your
10 impression, correct?

11 A. Yes, sir.

12 Q. Okay. Then you also -- when you had these concerns,
13 okay -- now, it seems that you talked to Detective Bonner
14 much later on, in September.

15 A. Yes, sir.

16 Q. Okay. Did you express those concerns to Detective
17 Duncan who was on scene that night?

18 A. I'm not sure who Detective Duncan is but I definitely
19 conveyed to the first arriving officer all of my concerns
20 and we actually went to the room and I talked through
21 everything that I had just previously testified to.

22 Q. Okay. So you relayed that information to the
23 Carrollton Police Department that night, correct?

24 A. Yes, sir.

25 Q. Okay. Were you on scene when the medical examiner came

1 in?

2 A. No.

3 Q. Okay. Did you have any conversations with the medical
4 examiner?

5 A. No, sir.

6 Q. Okay. Then you also talked about, based on your
7 opinion, that because the house was neat, that stood out to
8 you, correct?

9 A. It was -- it wasn't as significant. It was
10 circumstantial combined with everything else, the fact that
11 he had a really nice Tesla in the garage, I remember. It
12 seemed very affluent, and there didn't seem to be an
13 outstanding reason for him to have taken his own life.

14 Q. Okay. But people can take their own lives for a
15 variety of --

16 A. Sure.

17 Q. -- reasons, right?

18 A. Yes, sir.

19 Q. Even if they appear on the outside to be successful and
20 happy, correct?

21 A. Absolutely.

22 Q. Okay. And somebody could have a neat house because
23 they get everything in order so other people who have to
24 deal with the aftermath don't have to deal with a mess,
25 correct?

1 A. I've never experienced that, but I imagine it --

2 Q. So just because you've gone to houses that are unkempt
3 and the yard is undone and all that stuff, that in and of
4 itself doesn't mean just because that didn't exist here,
5 suicide is not a possibility.

6 A. Correct.

7 Q. Okay.

8 MR. WHALEN: I'll pass the witness.

9 THE COURT: Anything additional?

10 MR. FINE: Briefly, your Honor.

11 REDIRECT EXAMINATION OF PATRICK KING

12 BY MR. FINE:

13 Q. Captain King, did anybody administer etomidate to James
14 Seegan that night?

15 A. No, sir.

16 Q. And would there have been any reason to do so?

17 A. No. We did not perform any resuscitative measures or
18 use any medications on him.

19 Q. So -- and defense counsel brings up sort of looking at
20 one piece and then another piece and another piece. Is it
21 fair to say that your concerns about the crime scene
22 weren't based on just one specific thing; it was a totality
23 of all of these things going on?

24 A. The totality of everything added up to it being a
25 problem with how I reconciled the scene.

1 Q. And through your 20-plus years of being a firefighter
2 in various aspects of -- throughout the world, had you ever
3 experienced a crime scene like that before?

4 A. Not that -- no, definitely not.

5 MR. FINE: That's all I have. I'll pass the
6 witness.

7 RECROSS-EXAMINATION OF PATRICK KING

8 BY MR. WHALEN:

9 Q. Was one of the biggest pieces was the -- if I
10 understood your testimony correctly -- was the fact that it
11 came out as an unresponsive person, correct?

12 A. I think the biggest one is the handgun on the lap.

13 Q. Okay. And you don't have any degrees in biomechanics
14 or any of that?

15 A. I have an aeronautical science degree.

16 Q. Okay. Did you do any of that to -- ever study
17 biomechanics versus --

18 A. No.

19 Q. Okay. So you haven't done any biomechanics or --

20 A. No, sir.

21 Q. Okay.

22 MR. WHALEN: Pass the witness.

23 THE COURT: Anything else, Mr. Fine?

24 MR. FINE: No, your Honor. Nothing further.

25 THE COURT: Can this witness be fully excused?

1 MR. FINE: Yes, your Honor.

2 MR. WHALEN: Yes, your Honor.

3 THE COURT: You are free to go back to your
4 vacation.

5 THE WITNESS: Thank you, your Honor.

6 THE COURT: What's next?

7 MR. FINE: Your Honor, the United States calls
8 Officer Parker Powell.

9 THE COURT: Sir, if you'll raise your right hand
10 to be sworn in.

11 (The oath is administered to the witness.)

12 THE COURT: Go ahead and begin.

13 MR. FINE: Thank you, your Honor.

14 DIRECT EXAMINATION OF PARKER POWELL

15 CALLED ON BEHALF OF THE GOVERNMENT

16 BY MR. FINE:

17 Q. Good morning, Officer Powell. How are you?

18 A. Good morning. Doing well.

19 Q. Would you please introduce yourself to the ladies and
20 gentlemen of the jury and spell your last name for the
21 court reporter.

22 A. Yes. I'm Crime Scene Investigator Parker Powell. Last
23 name is P-O-W-E-L-L.

24 Q. And will you tell the jury, starting with your --
25 what's your educational background?

1 A. I have a biology degree from Baylor University and a
2 forensic science minor from there as well. That's the
3 education.

4 Q. And how did you become a crime scene investigator for
5 the Carrollton Police Department?

6 A. I had to apply for it. I had some internships with
7 other agencies and different educational backgrounds that
8 allowed me to apply for the position and get the job out of
9 college.

10 Q. And so outside of your education, what sort of training
11 did you receive to become a crime scene investigator?

12 A. So when you start at Carrollton, you have six months of
13 training where you shadow a crime scene investigator; and
14 you're going out to every scene and being educated on what
15 to do and how the process works.

16 Outside of that, we also are sent to a lot of
17 different trainings from various forensic science and crime
18 scene classes that help to educate you on how to perform
19 your job.

20 Q. And when you start out with the Carrollton Police
21 Department in the Crime Scene Unit, do you start out as a
22 crime scene investigator?

23 A. No.

24 Q. What position do you start out?

25 A. You start out as a crime scene technician. That's the

1 Level 1 position.

2 Q. And how do you advance to become a crime scene
3 investigator?

4 A. With training and experience. So you have to have
5 worked for a year of crime scene work by yourself, and then
6 you also have to have a certain amount of trainings to be
7 able to promote.

8 Q. What's the difference between a crime scene technician
9 and a crime scene investigator?

10 A. The responsibilities would be the same. The difference
11 is education and training.

12 Q. And how long have you been with the Carrollton Police
13 Department's Crime Scene Unit as a whole?

14 A. I've worked there for about five years.

15 Q. And that was straight out of college, correct?

16 A. Yes.

17 Q. And how long as a crime scene investigator?

18 A. I'm now advanced past that.

19 Q. Okay.

20 A. So I was a crime scene investigator for, I think, maybe
21 a year and a half before I promoted to the third level.

22 Q. And what's the third level?

23 A. It's technically called criminalist, but it's the same
24 job responsibilities.

25 Q. Do you have supervisory responsibilities now as well?

1 A. No.

2 Q. How many -- in the Carrollton Police Department, how
3 many members in total are in the Crime Scene Unit?

4 A. We have three people that are involved in the Crime
5 Scene Unit.

6 Q. And so in regards to when you have a crime, how is it
7 decided which crime scene investigator or technician or
8 criminalist goes out to a scene?

9 A. So we respond to all sorts of major crimes. Typically
10 only one crime scene investigator will respond to each of
11 those; and that's determined by who what we call is "on
12 call," which means that person responds to anything at any
13 time of the day. Whether that's 2:00 a.m. or over the
14 weekend, that person is the one that responds out. That's
15 how it's determined.

16 Q. And were you called out to a scene at 2114 Cannes
17 Drive?

18 A. I responded to it, but I wasn't the one called out.

19 Q. And so explain how that -- how that process works.

20 A. So one of my other investigators, Crime Scene
21 Investigator Kelsey Bell was the on-call; and she is the
22 one that received that call. There were some suspicious
23 circumstances; and so we decided together that I would tag
24 along, be another set of eyes, and assist her with the
25 investigation.

1 Q. So normal protocol is one crime scene -- I'll just
2 use -- crime scene technician/investigator, one crime scene
3 person, right?

4 A. That's correct.

5 Q. In this case y'all decided to bring two people out from
6 the beginning?

7 A. That's right. The only time we have more than one
8 person is typically with your larger cases where it's a lot
9 of area or with murder cases where we need more hands on
10 deck.

11 Q. On a run-of-the-mill suicide, do you normally have one
12 investigator go out or two?

13 A. Only one.

14 Q. And Crime Scene Investigator Bell, she no longer works
15 at Carrollton, correct?

16 A. Correct.

17 Q. Where does she work now?

18 A. She moved to go work where her husband works, so she's
19 out in East -- or West Texas.

20 Q. Okay. Wasn't fired or anything like that, just moved
21 with her husband to El Paso; is that right?

22 A. She got married.

23 Q. Okay. So let's talk about this crime scene itself.
24 Tell the ladies and gentlemen of the jury -- we talked
25 about the location. What kind of house was it?

1 A. It was a two-story house. Downstairs had a living
2 room, a kitchen, standard stuff. Upstairs was bedrooms and
3 bathrooms and things like that, office.

4 Q. And was there a specific room inside of this home that
5 ended up being your crime scene?

6 A. Yes.

7 Q. And which room was that?

8 A. It was primarily located in the office. It was the
9 northwest corner of the house, and it was an office space.

10 Q. And did you enter that office?

11 A. Yes.

12 Q. And when you entered that office, was the room -- was
13 the house and the room secured in terms of nobody in and
14 out of there that didn't belong in there?

15 A. That's correct.

16 Q. And why is that important?

17 A. To make sure that nothing's left the crime scene or
18 entered it. We make sure that we have officers that secure
19 it, and those officers stay and secure the scene the
20 entirety that we're there.

21 Q. And do y'all actually keep a log about who goes in and
22 out of the crime scene?

23 A. Yes, for major cases we do.

24 Q. And was that done in this case?

25 A. I believe so.

1 Q. As far as you're concerned, was the scene secured
2 properly?

3 A. Yes.

4 Q. Was it contaminated in any way?

5 A. Not that I'm aware of.

6 Q. And obviously in any case and in this case, a lot of
7 times you'll have paramedics or firefighters going to the
8 scene before y'all get there. Is that fair to say?

9 A. Almost always.

10 Q. And once they're at the point where they realize that
11 lifesaving measures are no longer appropriate, is the
12 correct measure for them to then exit the scene?

13 A. Yes.

14 Q. And did they do that here?

15 A. Yes.

16 Q. So tell the jury a little bit about the office itself.
17 Just sort of describe how it's situated and what you saw in
18 the office.

19 A. When you enter, there is a desk on the left side.
20 There is a large area of desk in front of you and on the
21 right. There are several computers and monitors up. It's
22 clearly something that has office chairs and desks. There
23 is a closet in that room as well.

24 That's kind of the layout, is several desks with
25 computers and stuff on them. I think there is a Lego

1 spaceship in the room. That's kind of the setup.

2 Q. Just your normal home office kind of setup?

3 A. Yes.

4 Q. And within that home office did you -- somebody you
5 later knew to be James Seegan, did you find his body in
6 there?

7 A. Yes.

8 Q. Tell the jury sort of how his body was positioned.

9 A. So Seegan's body was sitting in one of the rolling
10 chairs in the office. His head was slumped backwards, and
11 both arms were generally in his lap. He had a gun in his
12 left hand, and that gun was resting on his left leg. And
13 his feet were in front of him in just a standard sitting
14 with head back, gun in left hand.

15 Q. Have you responded to suicides before?

16 A. Yes.

17 Q. Have you responded to suicides by gunshot before?

18 A. Yes.

19 Q. Quite a few?

20 A. A lot, yeah.

21 Q. Have you responded to murders as well?

22 A. Yes.

23 Q. And so in this case you already talked about how two
24 members of the crime scene team were out there, correct?

25 A. Correct.

1 Q. As you looked at the crime scene initially, did you see
2 anything that appeared to be out of the ordinary?

3 A. When we responded, we were filled in on some red flags,
4 is what they're called, which are things to keep note of
5 and make sure to see if they match up with the crime scene
6 as we're trying to understand the scene and the body and
7 the weapon.

8 So we were told on the front end, you know,
9 that -- some information that we --

10 MR. SANDEL: Object to the hearsay, your Honor.

11 MR. FINE: Goes to his state of mind, your Honor.

12 THE COURT: Overruled.

13 A. We were told that Seegan was right-handed, and we were
14 told that Seegan didn't have any guns.

15 I was there when his wife was talking about the
16 guns; and she said that he doesn't own guns, he doesn't let
17 his son have guns, water guns, Nerf guns, anything like
18 that, doesn't own or have guns in the house.

19 So those are two things that we're keeping note
20 of. When I walk into the actual office, the first thing
21 that strikes me is the blood and the bloodstains that are
22 present there.

23 BY MR. FINE:

24 Q. And what struck you about that?

25 A. When Bell had been called to respond to the scene, one

1 of the suspicious things that we were told was that the
2 office chair had been moved into the bloodstain and had
3 been rolled.

4 And as typically with suicides by gunshot, when a
5 body is shot, that body doesn't move itself; and so that
6 was something suspicious that we were looking for.

7 Q. And through your training and experience, is that
8 something that you would look at, to see if things were
9 moved in the room?

10 A. Yes, that's one of the things.

11 Q. And did you take a look at the rolling chair or the
12 bloodstains or patterns around the rolling chair?

13 A. Yes. I spent a significant time looking at it.

14 Q. And did you form a conclusion about the rolling chair,
15 whether it was moved or not?

16 A. I did.

17 Q. And what was that conclusion?

18 A. That it hadn't been moved.

19 Q. Okay. And how did you come to that conclusion?

20 A. So when I was first looking at the scene, right, we
21 were told that the chair had been rolled; so we go in with
22 that expectation.

23 But the physical evidence on scene didn't tell me
24 that. What I saw and what's typical of bloodstains is that
25 from a wound, blood will drip. And at shooting suicides,

1 we can sometimes have a large pool of blood underneath a
2 person's body; so that's pretty typical.

3 What was different about this one is that the
4 blood hadn't just pooled around his body, it actually
5 spattered out. And "spattered" is just the technical term
6 for splashing out. But that blood had spattered out in all
7 directions around -- from basically right under and behind
8 the rolling chair, which is where Seegan's head had been
9 tilted at.

10 And it appeared -- and based off of the
11 bloodstains -- that all of that had come from right behind
12 the chair. And my best conclusion was that some brain
13 matter and something heavy had actually landed in the pool
14 of blood and had caused the spattering out in all
15 directions because it was a far distance for the blood to
16 travel and not something that would have happened just by
17 blood dripping.

18 And there was large chunks of possible brain
19 matter in the blood; and so that was my best possible
20 conclusion, is that that brain matter had landed in the
21 pool of blood, causing it to spatter out in all directions
22 at pretty high force.

23 If you can imagine stepping on a catsup packet and
24 that catsup kind of flying in all directions kind of at a
25 fast speed, that's the kind of force we're looking at.

1 There is nothing else in that bloodstain that would have
2 caused that except chunks of what looked like brain matter.

3 And we're also look at what's called voids. Voids
4 are anywhere the blood isn't present. So, you know, if
5 I've got my hand here and blood is flying by, no blood
6 would be anywhere behind my hand because it's blocking the
7 bloodstains from flying.

8 So we're also looking at the voids present; and
9 the voids match up with where the chair was, in that exact
10 position, telling me that -- and with Seegan's legs and
11 some other things present -- telling me that everything
12 that I could see there was present in that position when
13 the bloodstain occurred, which spattered in all directions.

14 Q. And so your conclusion was he was shot in that chair in
15 that spot?

16 A. Based off of the bloodstains and -- based off the
17 bloodstains, all I can say is that he was in that position
18 when that event occurred, when the spray happened.

19 Based on other information, I can say that he was
20 sitting there.

21 Q. And on the desk next to Mr. Seegan was a typewritten
22 note, correct?

23 A. That's correct.

24 Q. Was there any blood on that note?

25 A. Not that I'm aware of.

1 Q. Was it a relatively bloody scene?

2 A. It -- the distance that the blood had traveled was
3 larger than I've ever seen at any scene. That amount of
4 blood isn't uncommon for a head wound that's pooled, but
5 the distance was what was remarkable to me.

6 Q. And you didn't see any blood on the note that was next
7 to Mr. Seegan, correct?

8 A. I personally didn't, no.

9 Q. All right. What about the positioning of his hand?
10 You said that the gun was in his left hand. Did you find
11 anything odd about the positioning of his hand?

12 A. So with suicides by gun, sometimes -- it's about 50/50
13 shot that the gun remains still in the person's hand.
14 Sometimes the gun has fallen or gone somewhere else; but
15 about 50 percent of the time, the gun remains in that
16 person's hand.

17 We're looking for possible -- it's called back
18 spatter. When someone fires a gun, most of the blood
19 travels with the bullet and exits; and that's called
20 forward spatter. But some of the blood will also exit
21 through the entry wound and can get on the person's hand
22 that fired the weapon, and so we're looking for possible
23 back spatter that might be on that person's hand.

24 So the position of the gun -- it is possible that
25 it could have landed there and the gun could have stayed in

1 his hand, and we also had bloodstains -- two very small
2 droplets on his hand that could have been back spatter. So
3 those didn't jump out as inconsistent with the crime scene.

4 Q. And in regards to the note that was there -- I guess
5 you would refer to that as a suicide note, right --

6 A. Yes.

7 Q. -- in terms of the content of it?

8 When you responded to suicides before, is there
9 always a note there?

10 A. No.

11 Q. Is it actually more common that there is not a note, in
12 your experience?

13 A. Yes.

14 Q. When there are notes, is it more common for those notes
15 to be handwritten or typed?

16 A. I've only seen either handwritten suicide notes or
17 texts, and both of those are the most common things. I've
18 never seen a typed suicide note before.

19 Q. You mentioned what Mrs. Seegan said in terms of guns.
20 Is part of your job working the crime scene to take a look
21 around the house?

22 A. Yes.

23 Q. Not just in the room itself but around the rest of the
24 house for potential evidence or other circumstances that
25 might help figure out this case. Is that fair to say?

1 A. Yes.

2 Q. And was there any evidence in the home of any firearms
3 being in that home?

4 A. No.

5 Q. Any firearm ammunition?

6 A. No.

7 Q. Any firearm cases?

8 A. No.

9 Q. Was there any evidence in the home of syringes?

10 A. No.

11 Q. Needle drugs?

12 A. No.

13 Q. IVs?

14 A. No.

15 Q. Medication?

16 A. Yes.

17 Q. Tell the jury about medication.

18 A. Something we look at at all death investigations is
19 what that person may have been taking prescription
20 medication wise, and that can help in assessing the body
21 and the results of toxicology and different things like
22 that. So we're always looking for what medications that
23 person might be on. The medical examiners that respond to
24 scenes are always wanting that information.

25 And so I recall seeing and being pointed out that

1 there was a trash can in the master bathroom that was full
2 of at least -- I think -- I could see four prescription
3 medication bottles that were all kind of on top of the
4 trash can.

5 And then on top of that, it looked like someone
6 had dumped out the contents of a -- of a vacuum. So kind
7 of dust and particulate like that had been dumped on top of
8 what looked like several medication bottles.

9 Q. And did you later find out that the medication was for
10 a splinter that had been taken out?

11 A. I never saw or removed the medication, so I didn't
12 personally do that.

13 Q. Okay. Did you see any evidence in the house of a drug
14 called etomidate?

15 A. No.

16 Q. Have you -- did you find any evidence at all that that
17 handgun that was in Mr. Seegan's left hand was in the home
18 at all?

19 A. No.

20 Q. Did you find that to be odd?

21 A. It -- typically what we will see is a gun box,
22 ammunition, something of that nature when it comes to
23 suicides by gun. Someone will have someplace that they
24 kept the gun with ammunition, even if it's not something
25 that they regularly shoot, or an heirloom. In this case we

1 didn't see any of that.

2 Q. And through your experience of having attended
3 suicides -- there's two kinds of suicides. There is a
4 planned suicide and more of a spontaneous suicide. Is that
5 fair to say?

6 A. Yes.

7 Q. And so with a suicide note, would that show that there
8 was a planned suicide?

9 A. Yes.

10 Q. I mean, you're not going to just decide to kill
11 yourself and there is suddenly a note that appears, right?

12 A. Right.

13 Q. And so if it's a planned suicide and there is a
14 typewritten note there, you would expect to see some
15 evidence of a firearm beforehand, correct?

16 A. Yes.

17 Q. Because it would go into the planning of that suicide.

18 A. Right.

19 Q. Did you check the exterior of the home as well for any
20 signs of forced entry?

21 A. I did.

22 Q. Were there any signs of forced entry?

23 A. No.

24 Q. And what does that tell you?

25 A. There were two doors that were unlocked, so the -- both

1 fences -- both fence gates were unlocked. The exterior
2 back door and the interior back door were both unlocked.

3 So entry was possible; but I don't have any broken
4 windows, any broken doors or any indication that someone
5 broke into the house forcibly.

6 Q. Did you -- as part of your job, do you also look for
7 fingerprints?

8 A. Yes.

9 Q. And did you do that here?

10 A. On scene we rarely look for fingerprints and will
11 typically transport evidence to our laboratory to a
12 closed-in environment, and we'll process things for prints
13 there.

14 Q. And explain to the jury why -- you see on TV people are
15 going around dusting for prints and all that. That's not
16 really reality, correct?

17 A. Correct.

18 Q. And why is that?

19 A. Only if we are trying to figure out exactly what was
20 touched or we have, you know, some environment where we
21 have no clue who was present would we go and dust every
22 single item.

23 Typically we dust items that would typically be
24 touched or used in any kind of scene. And when it comes to
25 items, we can get fingerprints off of a lot of items; but

1 it's not something that we can typically get off of
2 everything and certainly less than you'd see on a TV show.

3 Q. Did you attempt to look for prints on the printer in
4 the office?

5 A. I -- when I saw the printed-out suicide note, I want to
6 make sure that there's a printer present, that there's --
7 that printer has paper. So I went over and in the office
8 there was two printers side by side -- or two blacks things
9 that -- I'm not sure if they were both printers.

10 But I looked for and confirmed that there was
11 paper in the printer; and I noticed that the printer was
12 covered in dust and that there were finger marks that had
13 been left in the dust, meaning that parts of the dust had
14 been removed by fingers based off of some recent activity
15 on the printer. So they're covered in dust. They've been
16 handled recently because I've got finger marks left in the
17 dust.

18 Q. So just because there's finger marks in the dust, does
19 that mean that you could actually pull fingerprints from
20 those marks?

21 A. No. So --

22 Q. Explain to the jury about that.

23 A. A lot of people will have their car stolen and we'll
24 process it and their car is covered in pollen and dust.
25 And what typically happens is when a finger touches a

1 smooth surface, oils left -- from your finger are left on
2 that smooth surface.

3 When something is covered in a layer of dust or
4 dirt, typically the finger will lift off that dirt instead
5 of leaving an impression; and so what you're left with is a
6 void where you can tell it's been touched but there is no
7 actual fingerprint present.

8 Q. And is that what you had with the printer here?

9 A. Yes.

10 Q. You had a void where you could tell it had been
11 touched, but you weren't able to recover any prints to tell
12 who touched it?

13 A. That's correct.

14 Q. What about the gun itself? Did you process the gun?

15 A. I did.

16 Q. And explain to the jury. So you have a piece of
17 physical evidence in a crime scene, this being a gun. How
18 do you go about collecting it?

19 A. Very carefully. In this case, you know, it's a loaded
20 gun. We have to be very careful that we don't accidentally
21 fire it.

22 So it's collected both in a way that's safe for
23 everyone present but also in a way that preserves any kind
24 of evidence that might be on the gun. In this case there's
25 some hairs and human tissue on the gun, and we want to make

1 sure that's preserved as well as anything that might be on
2 it. So we're very careful in how we pick it up and how we
3 package that, making sure it's secure and safe.

4 Q. And did you collect and package the gun according to
5 your protocols?

6 A. I personally didn't, but Investigator Bell did.

7 Q. And did you -- did you see the gun, though?

8 A. I saw the gun, yes.

9 Q. And eventually back at Carrollton Police Department,
10 did you process the gun and look for fingerprints?

11 A. I did.

12 Q. And explain to the jury. Is that the same process you
13 talked about before, or is it a little bit different when
14 you're in a sterile environment?

15 A. There's lots of ways to look for fingerprints. When
16 we're on scenes, typically we use what's called black
17 powder; and we're dusting for fingerprints.

18 In our laboratory we can use a lot more -- a lot
19 better techniques that are better for finding fingerprints,
20 especially on different surfaces. And so in a sterile
21 environment, we have access to our tools and resources.

22 Q. And did you use those tools in this case?

23 A. I did.

24 Q. Were you able to find any fingerprints on that firearm,
25 that gun?

1 A. I was not.

2 Q. And just so the jury is aware, the gun that was found
3 there, it is a firearm, correct?

4 A. Yes.

5 Q. A firearm is a deadly weapon?

6 A. Yes.

7 Q. And after you process the gun, do you also sometimes
8 send it off to check to see if DNA can be found on it?

9 A. Yes.

10 Q. And is DNA found on every single item?

11 A. No.

12 Q. Sometimes it is, and sometimes it isn't. Is that fair
13 to say?

14 A. That's correct.

15 Q. And again, you know, we talk a lot about TV and *CSI* and
16 all those shows and everything. But in reality, as
17 somebody who deals in crime scenes, a lot of times you
18 don't get fingerprints, fair?

19 A. Fair.

20 Q. A lot of times you don't get DNA, fair?

21 A. Fair.

22 Q. But it's your job to process that scene, collect
23 everything, photograph everything so that we can document
24 and try our best to recover physical evidence, correct?

25 A. That's correct.

1 Q. Did you do that in this case?

2 A. Yes.

3 Q. Did you take photographs in this case as well?

4 A. I didn't take any photographs in regards to the scene
5 or the items collected.

6 Q. Did you -- were -- well, I guess -- that was a bad
7 question.

8 Bell took the photographs, correct?

9 A. That's correct. She was primary.

10 Q. You reviewed the photographs, though?

11 A. I certainly did.

12 Q. And we've taken a look at them. I mean, fair to say
13 hundreds of photographs were taken just at the crime scene,
14 correct?

15 A. I don't know the exact amount but over a hundred.

16 Q. And did we sort of cull those down and come up with a
17 collection of photographs to be able to illustrate this to
18 the jury?

19 A. We did.

20 Q. And you've had a chance to review those?

21 A. Yes.

22 MR. FINE: All right. At this time the government
23 would offer the entirety of Government's 79.

24 MR. SANDEL: We would renew our previously stated
25 objection, your Honor.

1 THE COURT: Okay. Overruled. 79 will be admitted
2 in full.

3 MR. FINE: Permission to publish Government's 79,
4 your Honor?

5 THE COURT: Yes, you may.

6 MR. FINE: Starting with page 1.

7 BY MR. FINE:

8 Q. And Officer Powell, I think what we'll do is there's, I
9 believe, 40-something photos here. We'll just kind of go
10 through them one by one, and what I'll ask you to do is
11 basically on each one explain the significance of what
12 we're looking at; is that fair?

13 A. Yes.

14 Q. All right. So looking at page 1, what are we looking
15 at here?

16 A. This is the exterior of 2114 Cannes Drive and it's
17 clearly raining and it's dark. We arrived on scene at
18 6:21 p.m. By that time it's dark and it's kind of stormy.

19 Q. Looking at page 2, is this the front entry?

20 A. Yes.

21 Q. And are these packages that appear to have been
22 recently delivered?

23 A. Yes.

24 Q. And, again, you weren't there; so you don't know. It's
25 possible the packages were out there for weeks and weeks.

1 But through common sense, if you're not at home during the
2 day sometimes packages pile up on your front porch,
3 correct?

4 A. Yes.

5 Q. Does that appear to be what happened here?

6 A. Yes.

7 MR. FINE: Let's look at page 3.

8 BY MR. FINE:

9 Q. I want to point out one thing on the front porch. Do
10 you know what that is right there that I've circled?

11 A. I do.

12 Q. And what is it?

13 A. It's a doorbell camera.

14 Q. Is it one of those Ring/Nest cameras that, you know,
15 you get video off of it?

16 A. Yes.

17 Q. And we're going to talk about that in a second, but do
18 you know for a fact that that was actually working that
19 night?

20 A. I do, yes.

21 Q. Okay. Were you actually able to review some video from
22 that camera?

23 A. Yes.

24 Q. All right.

25 MR. FINE: Let's go to page 4.

1 BY MR. FINE:

2 Q. What room are we looking at here on page 4?

3 A. I don't know what I would call the room, but it's the
4 room right as you enter. That's going to be on your left
5 and has kind of various equipment in it.

6 Q. And over here, is that a ladder and maybe some painting
7 supplies and things like that, looks like what would be
8 used for home improvements?

9 A. Yes.

10 Q. And as you're entering the house, that room is to the
11 left, correct?

12 A. Directly to the left.

13 Q. Okay.

14 MR. FINE: Let's go to page 5.

15 BY MR. FINE:

16 Q. So what are we looking at here?

17 A. This is the stairwell to get to the second floor.

18 Q. And the office is on the second floor, correct?

19 A. That's correct.

20 MR. FINE: All right. Let's look at page 6.

21 BY MR. FINE:

22 Q. Now we're heading up the stairs?

23 A. Yes.

24 Q. And as we're heading up the stairs, is the office to
25 the right?

1 A. It's going to be around the corner, on your right.

2 Q. Basically right and right?

3 A. Yes.

4 Q. Okay.

5 MR. FINE: Let's look at 7, please.

6 BY MR. FINE:

7 Q. Is this now we're upstairs? We've turned to the right;
8 and the room on the right, is that going to be the office?

9 A. Yes.

10 MR. FINE: All right. Let's go to 8, please.

11 BY MR. FINE:

12 Q. Is this a view looking into the office?

13 A. It is.

14 Q. From just outside the hall?

15 A. Yes.

16 MR. FINE: 9, please.

17 BY MR. FINE:

18 Q. Is this the view as you went into the room, sort of the
19 first view that you see going in?

20 A. Yes.

21 Q. And so obviously we see Mr. Seegan on the left side.
22 We see a lot of office supplies, a couple of monitors,
23 multiple desks; is that fair?

24 A. Yes.

25 Q. Do you see what I'm circling here on page 9?

1 A. I do.

2 Q. What does that look like to you?

3 A. It looks like a shower -- like a shower stool,
4 something.

5 Q. And that's basically right up next to where Mr. Seegan
6 is dead, correct?

7 A. Yes.

8 MR. FINE: All right. Let's go to page 10.

9 BY MR. FINE:

10 Q. And as we start looking closer at Mr. Seegan, you can
11 see blood pooling, some blood spatter all throughout the
12 floor; is that correct?

13 A. Yes.

14 MR. FINE: Let's go to 11, please.

15 BY MR. FINE:

16 Q. And so looking at 11, appear to be pictures of his son
17 throughout the office; is that right?

18 A. Yes.

19 Q. You've got a dartboard up here, some T-ball pictures,
20 correct?

21 A. Yes.

22 Q. A picture -- looks like a Franco Harris picture here.

23 A. I don't know who that is.

24 Q. We won't hold that against you.

25 MR. FINE: Let's go to 12.

1 BY MR. FINE:

2 Q. And so are we looking at here -- we're now in the
3 office, and we're kind of at what I would say is the back
4 corner looking towards the door; is that right?

5 A. The farthest corner from the door.

6 MR. FINE: Let's go to 13, please.

7 BY MR. FINE:

8 Q. And this is the other side of the office; is that
9 right?

10 A. Yes.

11 Q. And, again, we're looking at another little T-ball
12 picture here, just, again, what you would see in your
13 typical home office?

14 A. Yes.

15 MR. FINE: 14, please.

16 BY MR. FINE:

17 Q. This view -- what are we looking at here in this view?

18 A. This is taken from behind the monitor, on the far
19 side's desk. It shows a picture of Seegan's head.

20 Q. And through your investigation, were you able to
21 determine which side of the head the entrance wound was on?

22 A. Yes.

23 Q. And what side is that?

24 A. That would be the left side.

25 Q. And that's the large wound here above his left ear,

1 towards the back of his head, correct?

2 A. That's correct.

3 Q. And so the bullet -- were you able to actually figure
4 out the general trajectory in which the bullet went?

5 A. Yes.

6 Q. And which way did it go?

7 A. So the pattern on the left side first is what's called
8 a stellate pattern. That's what we typically see with
9 close contact gunshot wounds. The gun is so close that the
10 gases cause the skin to rip and cause a star pattern to
11 show up. That's how we're able to approximate which was
12 entry versus exit. That's very typical of what we see with
13 guns close up or right up against the head.

14 Then the trajectory side, we have an exit wound on
15 the right side of the head; and almost directly next to the
16 head, on this door --

17 Am I able to draw on this?

18 Q. You can actually -- you should be able to draw on that
19 screen.

20 A. So right underneath this jacket, in the door frame --
21 in the wood of the door is a bullet mark showing that the
22 bullet struck and glanced off the door and then entered the
23 closet wall, the far wall of the closet.

24 And all of that was at pretty much the same level
25 of height and direction of coming out of the head, striking

1 the door, glancing off, and then entering the wall of the
2 closet.

3 MR. FINE: And let's go to page 15 and we'll see a
4 little bit better view of what you were talking about.

5 BY MR. FINE:

6 Q. Can you circle where that bullet hole is?

7 A. Yes.

8 Q. And so that's the bullet hole going from Mr. Seegan's
9 left side of his head through the right side of his head,
10 all the way through the closet; and we'll see eventually
11 where it came to rest as well, correct?

12 A. Yes.

13 MR. FINE: Let's go to page 16, please.

14 BY MR. FINE:

15 Q. What room are we looking at here, on page 16?

16 A. The master bedroom. It's upstairs, right across from
17 the office.

18 MR. FINE: And page 17.

19 BY MR. FINE:

20 Q. Just kind of a little bit different view, a little bit
21 lighter picture; is that correct?

22 A. Yes.

23 Q. Does this appear to be like a home sauna?

24 A. That's what it looks like.

25 MR. FINE: Let's go to 18.

1 BY MR. FINE:

2 Q. So 18 here, we're looking sort of closer -- if we were
3 standing by the sauna, looking into that master closet; is
4 that correct?

5 A. Yes.

6 MR. FINE: And let's go to 19.

7 BY MR. FINE:

8 Q. What is the significance of this photo?

9 A. So this wall is directly on the other side of the wall
10 in the closet in the office. So if the bullet has passed
11 through that side of the wall, we would expect it to exit
12 this side of the wall.

13 Q. And, Officer Powell, we were able to put together some
14 diagrams of the home and the room where Mr. Seegan was
15 found, correct?

16 A. Yes.

17 Q. And you reviewed those?

18 A. Yes.

19 Q. And they are not going to be exactly to scale; but they
20 appear to be fair and accurate to give the jury an
21 understanding of what the home looked like and the
22 different rooms, correct?

23 A. That's correct.

24 MR. FINE: At this time government would offer
25 Government's 80.

1 MR. SANDEL: No objection, your Honor.

2 THE COURT: 80 will be admitted.

3 BY MR. FINE:

4 Q. So what I'm going to do --

5 MR. FINE: Permission to approach the witness,
6 your Honor?

7 THE COURT: Yes.

8 BY MR. FINE:

9 Q. I'm trying to think of the best way to do this; but I
10 think we'll just go old-fashioned, hold something up here.

11 MR. FINE: And, your Honor, may the witness step
12 down briefly?

13 THE COURT: Yes. Let me get a lapel mic for him,
14 though.

15 BY MR. FINE:

16 Q. Sorry. I'm making this difficult here.

17 A. That's okay.

18 Q. So looking at Government's 80, this is basically the
19 setup of the office; is that correct?

20 A. From a bird's-eye view overhead.

21 Q. And show the jury. Just kind of point out where
22 Mr. Seegan is.

23 A. This would be Seegan's body in the rolling chair in
24 that corner of the office.

25 Q. And -- I'll try to hold it a little higher.

1 Show the jury where the closet is.

2 A. This would be the closet that the bullet ends up going
3 through.

4 Q. Okay. And then looking at 80, which is a view of the
5 office and then the master bedroom as well, kind of again
6 show the jury where the bullet went through and where
7 eventually it rested.

8 A. So again here is Seegan's body and the rolling chair.
9 The gun is in his left hand. We have an entry hole in the
10 left side of his head, exit in the right side.

11 The bullet then glances off this door right in the
12 corner of it at an angle which enters through this part of
13 the wall and exits right here, and this is where we find
14 the bullet.

15 Q. And that's where you can kind of see how the walls
16 connect. The two closets share a wall, correct?

17 A. Correct.

18 Q. All right. You can be seated.

19 So, Officer Powell, we're looking now at the
20 master closet with that shared wall. Going -- this is
21 page 19 we're looking at right here.

22 MR. FINE: Let's go to page 20.

23 BY MR. FINE:

24 Q. What is this defect in the wall right there?

25 A. That would be a bullet hole. You can see from how the

1 parts of the wall are pointed out that the bullet has
2 exited through that wall.

3 Q. And so this is that bullet going through Mr. Seegan's
4 head left to right, through the office closet, into the
5 adjoining wall, into the master closet?

6 A. That's correct.

7 Q. All the way through, correct?

8 A. Yes.

9 MR. FINE: And let's go to page 21.

10 BY MR. FINE:

11 Q. And what is that right there in the midst of all that
12 dust and plaster?

13 A. That's a fired bullet.

14 MR. FINE: And let's go to 22.

15 BY MR. FINE:

16 Q. And is that the bullet right there?

17 A. It is.

18 Q. And was that -- basically you took it out of that dust
19 and took a better photograph of that -- or Bell took a
20 better photograph?

21 A. That's correct.

22 MR. FINE: Let's go to 23.

23 And then to 24.

24 BY MR. FINE:

25 Q. So 23 was the trash can with some of those medications

1 bottles. 24 is a little bit better photo of it. Is this
2 what you were talking about, how there was some
3 prescription medication and some -- it's like if you take,
4 I don't know, a Dustbuster or a vacuum and dump all the
5 stuff on top of it, is that kind of what it looks like
6 here?

7 A. That's what I was discussing, yes.

8 Q. All right.

9 MR. FINE: And going to 25.

10 BY MR. FINE:

11 Q. Is 25 showing sort of the gun laying on Mr. Seegan's
12 lap a little bit in his left hand?

13 A. The gun -- it does show that the gun is leaning on his
14 left lap, yeah.

15 MR. FINE: And zooming back -- actually, zoom back
16 in where we were before.

17 BY MR. FINE:

18 Q. You talked about blood spatter. Does it appear -- I
19 guess -- could you go ahead and on the screen point out
20 some areas of blood spatter on there on the back wall.

21 And on that shower seat, does there appear to be a
22 little bit as well?

23 A. No. It -- there is a desk leg that's blocked any blood
24 from traveling on that side of the desk.

25 So the blood's originating behind the chair, the

1 rolling chair that Seegan is in, and is spattering out.
2 There is a big leg that's blocked the blood from traveling,
3 so this whole area is void of bloodstains.

4 Whereas the back wall and everything in front does
5 have bloodstains on it.

6 Q. And you've actually got -- you've got some spatter here
7 as well on the front of the desk; is that correct?

8 A. That's correct.

9 Q. And then, obviously, back on the closet door and
10 then --

11 MR. FINE: If we could even zoom in, yep, on this
12 area here.

13 BY MR. FINE:

14 Q. It's a lot of blood spatter. Fair to say?

15 A. It is, a lot of blood spatter.

16 MR. FINE: All right. Let's go to -- let's go to
17 27, actually.

18 BY MR. FINE:

19 Q. So in 27 you see Mr. Seegan's left hand gripped around
20 the gun. Is this the alleged suicide note that you were
21 talking about?

22 A. Yes.

23 Q. And this is the note. You had never seen a note like
24 this before in your suicides, correct?

25 A. I've never seen a printed-out suicide note.

1 Q. And you said you couldn't find any blood on it,
2 correct?

3 A. I didn't see any blood on it.

4 MR. FINE: Let's go to page 30, please.

5 BY MR. FINE:

6 Q. You mentioned that potential blood spatter on the hand
7 basically after a gunshot because you get -- probably not
8 the right term -- some blowback basically?

9 A. Back spatter.

10 Q. Back spatter.

11 Do we see that in this picture here, what you
12 thought you might see as back spatter?

13 A. There's two tiny droplets of blood on the left hand of
14 Seegan, both right there.

15 I thought it was possible that that was related to
16 back spatter.

17 Q. And in regards to back spatter, there could -- you
18 know, there could be those two tiny drops. We don't see a
19 lot of back spatter on his hand, though, correct?

20 A. No, we don't.

21 Q. And again there is significant blood loss. Fair to
22 say?

23 A. Yes.

24 Q. Significant blood spatter throughout the room?

25 A. Yes.

1 Q. Pooling as well?

2 A. Yes.

3 Q. Drops?

4 A. Yes.

5 Q. I mean, this is -- would you agree this is one of the
6 bloodier scenes that you've attended?

7 A. It's certainly the largest area, from a single person,
8 of blood that I've seen.

9 Q. And the most that you could find on Mr. Seegan's hand
10 is potentially -- we don't know for sure -- potentially
11 these two little spots here, correct?

12 A. On his hand, yes.

13 Q. Okay.

14 MR. FINE: Let's go to page 35, please.

15 BY MR. FINE:

16 Q. So what are -- outside of a large pool of blood and
17 spatter, what is the significance of 35?

18 A. So there's a lot going on with blood. The longer blood
19 stays out of the body, it begins to clump together. It's
20 called coagulation. But that blood will start to clump
21 together. It will also start to separate into its
22 components, so the serum part of blood will slowly start to
23 separate and seep out. So in regards to this photo, this
24 lighter section right there is the serum starting to
25 separate.

1 The middle section back here is very clumpy but
2 not in the way that looked like coagulation, the way
3 that -- to me, it looked like brain matter likely dropped
4 into the pool. And, you know, if you look at that area
5 being the center of the stain, the blood stains in every
6 direction from there are pointed out. So the stains are
7 going in every direction, these directions.

8 And I'd like to point out the void area.

9 Do you know how to erase these?

10 Q. Just -- you've read my mind. That was the next thing I
11 was going to do is ask you to point out that void area
12 where initially, you know, some of the first responding
13 officers thought that the chair had been moved. If you
14 could point that out to the jury.

15 A. Right. So they told us the chair had been pushed into
16 the blood. So when I get out there, I am able to see that
17 this area right here has what's called a void. The blood
18 basically was blocked with the wheel that's present there,
19 and any blood that struck the wheel didn't continue forward
20 and so we've got the void there.

21 There's voids on every single wheel as well as
22 this middle section that's blocking some blood going that
23 way.

24 The blood that strikes this portion of the bottom
25 part of the chair eventually starts to drip down; and

1 that's why we have this row of blood that's in just a
2 straight line, because all the blood that struck that
3 portion of the chair eventually will drip and drip just
4 underneath it. That's gravity.

5 Q. I think for Government's 79 that's all we'll go through
6 right now.

7 You said that you did end up recovering the gun,
8 correct?

9 A. Yes.

10 Q. You processed it?

11 A. (Moving head up and down.)

12 Q. After you're done processing a gun, do you keep it in a
13 secure area at the Carrollton Police Department?

14 A. Yes.

15 Q. Was that done in this case?

16 A. Yes.

17 Q. Did you bring the gun as well as a casing down here
18 today?

19 A. I did.

20 Q. Did y'all take it out of your secured evidence storage
21 to bring it down here?

22 A. Yes.

23 Q. Was it tampered with in any way?

24 A. No.

25 MR. FINE: Permission to approach, your Honor?

1 THE COURT: Yes.

2 BY MR. FINE:

3 Q. Officer Powell, I'm going to show you what has been
4 marked as Government's Exhibit 81.

5 Do you recognize that?

6 A. I do.

7 Q. Is that the same firearm that was recovered that was in
8 the hand of James Seegan?

9 A. It is.

10 Q. I'm also going to show you what's been marked as
11 Government's 82. Do you recognize that?

12 A. Yes.

13 Q. Is that the casing that was found as well?

14 A. It is.

15 MR. FINE: At this time the government would offer
16 Government's 81 and 82.

17 MR. SANDEL: No objection, your Honor.

18 THE COURT: 81 and 82 will be admitted.

19 MR. FINE: Permission to publish Government's 81,
20 your Honor?

21 THE COURT: What are you planning on doing?

22 MR. FINE: I was going to have the witness step
23 down, show the firearm, and also explain the mechanism of
24 it.

25 THE COURT: That's fine. I just want to make sure

1 you weren't going to hand it to them.

2 MR. FINE: No. No, no, no, no, no.

3 THE COURT: Well, "publish" has different meanings

4 so --

5 BY MR. FINE:

6 Q. And so the jury knows and for the record, this gun has
7 been cleared by the Carrollton Police Department, correct?

8 A. Yes.

9 Q. It cannot be fired. It's not loaded.

10 It's also been cleared by the marshal as well,
11 correct?

12 A. Yes.

13 Q. All right. So if you'd go ahead -- it's zip-tied up
14 now to keep it in storage. If you'll take the zip ties
15 off, and then let's explain the mechanism of the gun to the
16 jury.

17 A. I'm going to leave this in here.

18 Q. Yeah, that's fine.

19 MR. FINE: And, your Honor, permission for the
20 witness to step down?

21 THE COURT: Yes, go ahead.

22 BY MR. FINE:

23 Q. So, Officer Powell, this is Government's 81. This is
24 the weapon that you found and recovered that was in
25 Mr. Seegan's hand that ultimately killed him, correct?

1 A. It is.

2 Q. And 82 -- we're not going to open it up because it was
3 in a pool of blood. But it is a fired casing, correct?

4 A. Yes.

5 Q. So explain to the jury a little bit about a firearm.
6 Is this -- what type of firearm is this?

7 A. So it's a semiautomatic 9-millimeter handgun. It
8 shoots 9-millimeter ammo and can be fired
9 semiautomatically.

10 Q. And when you say "semiautomatically," what does that
11 mean?

12 A. It means that you can't hold down the trigger and fire
13 off unlimited amount of shots. You have to pull the
14 trigger each time you want to shoot it.

15 Q. And so with a gun -- with this particular gun or any
16 semiautomatic gun, after you fire does it basically expel a
17 casing out of it?

18 A. Typically when a -- typically when a gun is fired, the
19 bullet is fired out of it and a spent casing, the casing
20 containing the explosive material, is ejected out of the
21 gun.

22 Q. And so if you could explain -- when we have a casing,
23 explain what is loaded into this gun. You have a bullet.
24 Within the bullet there's gunpowder, correct?

25 A. Correct.

1 Q. And there is a casing that is around the bullet as
2 well, correct?

3 A. Yes.

4 So you've got a magazine inside the gun. The
5 magazine is full of a stack of bullets. The top bullet
6 will be racked into what's called the chamber, meaning it's
7 lined up and ready to be fired.

8 When you pull the trigger, a firing pin strikes
9 the back of the bullet, causing the explosion to happen.
10 With the explosion the bullet is fired forward. The top
11 half of the gun will slide backwards; and as it does, it
12 ejects the casing portion, which is the portion that's not
13 needed anymore for the bullet to travel, backwards and a
14 new bullet will be racked into the chamber, ready to be
15 fired if you pull the trigger again.

16 Q. And was that the case here, with this gun?

17 A. Yes.

18 Q. The bullet was expelled out, went through Mr. Seegan's
19 head, went through the wall, rested in the closet; casing
20 came out of the gun, landed in basically a pool of blood?

21 A. Yes, and a new bullet was chambered.

22 Q. Right.

23 And in this case, though, the evidence was that
24 only one shot was fired, correct?

25 A. Correct.

1 Q. But when you recovered the gun, you said it was loaded.
2 Was there another bullet basically ready to go if somebody
3 were to pull the trigger?

4 A. Yes.

5 Q. Okay. You could be seated.

6 All right. Officer Powell, I wanted to talk about
7 one other thing at this crime scene; and then we'll recap
8 that you went to another scene for a search warrant as
9 well, correct?

10 A. Correct.

11 Q. All right. So in regards to this scene, when y'all
12 were there -- and at any crime scene there's a lot of
13 officers around, right?

14 A. Typically.

15 Q. And so there is some time where officers are standing,
16 waiting, letting crime scene do their thing, letting
17 detectives do their thing. Medical examiner technicians
18 come in, right?

19 A. Yes.

20 Q. And so you guys could be at these crime scenes
21 sometimes for hours?

22 A. Yes.

23 Q. So while you were there at the scene, did you have a
24 chance to take a look at the doorbell camera?

25 A. I did.

1 Q. And how did that happen?

2 A. We were able to access James Seegan's cell phone, which
3 was present in the office.

4 From there, we were able to access the video
5 camera footage of the doorbell. And that's something that
6 we look at at any scene that has video footage. We want to
7 make sure we put eyes on it.

8 Q. And when you reviewed that footage, did you see a man
9 go into the home?

10 A. Yes.

11 Q. Did you see a man leave the home?

12 A. Yes.

13 Q. Did you see a man later go back into the home?

14 A. The same one.

15 Q. And then leave again?

16 A. Yes.

17 Q. And in regards to that video, at the time did you know
18 who that man was?

19 A. No.

20 Q. And that's something that detectives who later came to
21 work the scene, they could figure out, correct?

22 A. Correct.

23 Q. Did I have you review those four video clips?

24 A. You did.

25 Q. And when you reviewed them, were they the same clips

1 that you watched out there at the scene?

2 A. They were.

3 Q. Had anything been added, altered, deleted in any way?

4 A. No.

5 Q. All right.

6 MR. FINE: At this time we'd offer

7 Government's 93A, B, C and D.

8 MR. SANDEL: Judge, we would object to
9 authentication and predicate.

10 MR. FINE: Your Honor, he said that he watched
11 those videos, those same videos that are on there. Nothing
12 has been added, altered, deleted. It's exactly the same.

13 THE COURT: Okay. Objection overruled. 93A, B,
14 C, and D are admitted.

15 BY MR. FINE:

16 Q. And, Officer Powell, did you also look at a video from
17 the garage cam as well?

18 A. Yes.

19 Q. Tell the jury about that.

20 A. While we were on scene and watching the footage from
21 that day, we came across a video that contained a loud
22 sound like a boom happening. And it was recorded in the
23 garage video camera.

24 Q. And you don't know what that sound is, correct?

25 A. We weren't able to tell.

1 Q. But was it something, again, that could be significant
2 in an investigation?

3 A. Yes.

4 Q. And were you able to -- was that video able to be saved
5 directly off of the cell phone?

6 A. I personally didn't save it off the cell phone, so I'm
7 not sure.

8 Q. Was it -- was it viewed on -- did you have a body cam
9 that day?

10 A. No.

11 Q. Did other officers have body cams?

12 A. Yes.

13 Q. And was one of the officers wearing a body cam
14 basically watching the video on Mr. Seegan's cell phone?

15 A. Yes.

16 Q. And was the body cam from that officer recording the
17 video -- recording a recording, basically?

18 A. Yes.

19 Q. And did you review that as well?

20 A. I did.

21 Q. And the body cam recording, which is Government's 94A,
22 was that an exact recording of what you viewed that night?

23 A. It is.

24 Q. Any additions, alterations, deletions, anything changed
25 whatsoever?

1 A. No.

2 MR. FINE: We would offer Government's 94A at this
3 time.

4 MR. SANDEL: Your Honor, may we approach briefly?

5 THE COURT: Yes.

6 (Sidebar conference, off the record.)

7 MR. FINE: May I proceed, your Honor?

8 THE COURT: Yes, you may.

9 MR. FINE: So we would go ahead and offer
10 Government's 94A at this time.

11 MR. SANDEL: And we would lodge the objections we
12 lodged at the bench, your Honor.

13 THE COURT: Well, you need to see them for the
14 record.

15 MR. SANDEL: We would lodge objections to
16 predicate, authentication, and the best evidence rule.

17 THE COURT: Overruled. 94A will be admitted.

18 BY MR. FINE:

19 Q. Officer Powell, you also later on went to Nine Band
20 Brewery as well, correct?

21 A. I did.

22 Q. Subsequent to a search warrant, same kind of situation
23 there, you're collecting evidence, taking photographs,
24 documenting the scene, correct?

25 A. Correct.

1 Q. And did you do that in this case?

2 A. I did.

3 Q. Did you take photographs of the brewery?

4 A. I did.

5 MR. FINE: At this time the government would offer
6 Government's 131, which are photographs from that brewery.

7 MR. SANDEL: No objection, your Honor.

8 THE COURT: Okay. 131 will be admitted.

9 BY MR. FINE:

10 Q. After you left on February 19th, were you riding back
11 in a car with another officer?

12 A. Yes.

13 Q. And which officer was that?

14 A. Detective Juvensio Vazquez.

15 Q. And did you and Detective Vazquez receive a call on his
16 cell phone?

17 A. Yes.

18 Q. Was it on speaker?

19 A. He was driving at the time, and so he put his cell
20 phone on speaker.

21 Q. And could you hear the phone call?

22 A. Definitely.

23 Q. And who called on Detective Vazquez's cell phone?

24 A. Keith Ashley.

25 Q. And what did Keith Ashley say on that phone call?

1 A. He was informing us of information that he stated he
2 had just found out. He made statements saying, "I just
3 found out that Seegan's dad has passed away," "I just found
4 out that James had found his brother -- or had found his
5 best friend had died," "I just found out that James'
6 brother had committed suicide in the last year."

7 And he went on to make quite a few statements
8 predicated with "I just found this out" -- "I didn't know
9 this before" or "I just found this out" and repeating that
10 and informing us the information.

11 Q. And what did you take from that call? What was your
12 opinion?

13 A. Those statements were statements I had previously just
14 seen in the suicide note written -- or typed and at the
15 crime scene.

16 Q. And at that point had anybody outside of the Carrollton
17 Police Department or paramedics been able to see that
18 suicide note?

19 A. No.

20 Q. Was it released to the media?

21 A. No.

22 Q. And so did you find it strange that he was talking
23 about things that he just found out that were in a suicide
24 note that was found at a crime scene that only y'all had
25 access to?

1 A. Yes.

2 Q. And so it was clear at that point, on the night of
3 February 19th, that Mr. Ashley knew there was a police
4 investigation?

5 A. Yes. I witnessed a phone call informing him of the
6 death and our investigation.

7 MR. FINE: I'll pass the witness.

8 THE COURT: Okay. Thank you.

9 At this time we're going to go ahead and take our
10 morning break. Again, ladies and gentlemen, please don't
11 discuss the case among yourself or anyone else. We'll take
12 15 minutes and come back and continue. Thank you.

13 (The jury exits the courtroom, 10:37 a.m.)

14 THE COURT: Anything further from government?

15 MS. RATTAN: No, your Honor.

16 THE COURT: Defense?

17 MR. WHALEN: No, your Honor.

18 THE COURT: Okay. See you back in 15.

19 (Recess, 10:38 a.m. to 11:21 a.m.)

20 (Open court, defendant present, jury present.)

21 THE COURT: Please be seated.

22 Ladies and gentlemen, sorry for the interruption.
23 We're not sure why the fire alarm went off. It was a false
24 alarm, and it went off on its own. The fire department --
25 no one could seem to get it off, but the repair people are

1 coming out to figure out what the problem is.

2 Okay. Cross-examination?

3 MR. SANDEL: Thank you, your Honor.

4 CROSS-EXAMINATION OF PARKER POWELL

5 BY MR. SANDEL:

6 Q. Investigator Powell, good morning.

7 A. Good morning.

8 Q. And just so we have a really nice, clean record, you're
9 the same Parker Powell that was testifying right before we
10 took a break, correct?

11 A. That is correct.

12 Q. And you recall that you were placed under oath?

13 A. Yes.

14 Q. Now, I apologize in advance. I'm going to jump around
15 a little bit because I was taking notes during your direct
16 testimony and I want to touch on several things that I
17 remember you saying, okay?

18 A. Okay.

19 Q. But if I ask a question and you're not sure what I'm
20 asking, just ask me to rephrase it; and I'm happy to do
21 that.

22 A. Okay.

23 Q. So the first thing that I want to ask you, you said
24 that in this case you took two crime scene investigators or
25 technicians to the scene with you; is that true?

1 A. We took two crime scene investigators to the scene.

2 Q. And that was you, and what was the name of the second
3 crime scene technician?

4 A. Crime Scene Investigator Kelsey Bell.

5 Q. Kelsey Bell.

6 And I believe what you said on direct is that that
7 is atypical for a suicide call. Is that true?

8 A. That's true.

9 Q. So having two investigators there would be more typical
10 of when murder is suspected?

11 A. That's correct, or suspicious circumstances.

12 Q. So fair to say that even before you had arrived at the
13 scene, there was somebody that had communicated to you that
14 there was a level of suspicion here?

15 A. That's correct.

16 Q. Now, I also believe that I remember you testifying that
17 while you were looking around the scene, you noticed some
18 what you called red flags. Do you recall that?

19 A. I was told some red flags when I arrived at the scene.

20 Q. And do you recall who it was that communicated some of
21 those red flags to you?

22 A. So when we arrive on scene, we typically will go and
23 meet with what's called the primary officer or the primary
24 sergeant on the scene. That's the person who's probably
25 been there the longest and knows the most information about

1 the scene. And they'll fill us in on what they've found,
2 what people have said, thing of that nature.

3 In this case Sergeant Schroeder was the primary
4 sergeant on scene.

5 Q. So Sergeant Schroeder was the primary sergeant; and he
6 is the one that communicated some of these suspicions to
7 you, correct?

8 A. I believe so.

9 Q. Okay. Now, you would agree with me that red flags
10 aren't necessarily proof of anything, right?

11 A. When we are at scenes, we are assessing all of the
12 information we're given and what we can see based off of
13 physical evidence. And anytime something stands out as
14 uncommon or like it doesn't necessarily belong, that's
15 something that we would call a red flag.

16 It doesn't necessarily mean that there is
17 suspicious circumstances, but it does mean that it's
18 something we're keeping an eye on. And the more red flags
19 we find, the more suspicious we think the circumstances
20 might be.

21 Q. And you've been with Carrollton PD for five years, you
22 said?

23 A. That's correct.

24 Q. And you would agree with me that in prior
25 investigations you've had some red flags that turned out to

1 be fairly innocuous, right?

2 A. I have had scenes where I've had a red flag, and one on
3 its own isn't necessarily evidence of suspicious
4 circumstances.

5 Q. Okay. Talking about some of these circumstances or
6 items that you saw at the scene, one of the items that
7 Mr. Fine discussed with you was the gun placement in
8 Mr. Seegan's hand.

9 Do you recall testifying about that?

10 A. I do.

11 Q. Now, I think -- and correct me if I'm wrong -- that
12 your testimony was it's about a 50/50 chance that in a
13 suicide the gun remains in the victim's hand. Is that
14 true?

15 A. That's true, in my experience.

16 Q. Another -- kind of keeping on Mr. Seegan's hand,
17 another item that you discussed with Mr. Fine was the
18 possible back -- I think you called it back splatter,
19 correct?

20 A. Back spatter.

21 Q. Back spatter. Thank you.

22 And you recall you identified a few droplets of
23 blood that could be potential back spatter?

24 A. It's possible.

25 Q. Now, is back spatter -- when we're talking about an

1 incident of a gunshot wound, is back spatter something that
2 happens relatively immediately?

3 A. Yes.

4 When the bullet is fired and the -- and it
5 penetrates into the head or some kind of part of the body,
6 that's when your forward spatter, which goes along with the
7 bullet, happens and when the back spatter related to the
8 bullet entering happens. It happens in that instant.

9 Q. So back spatter is an immediate reaction to the gunshot
10 wound, correct?

11 A. Correct, to the bullet.

12 Q. Now, you talked a lot about the blood pooling at the
13 scene, correct?

14 A. Correct.

15 Q. And I think a couple of times you said that in terms of
16 crime scenes you've investigated, this was one of the
17 larger areas in terms of how far that spatter had traveled,
18 correct?

19 A. Correct.

20 Q. Now, when you were discussing that, the conclusion that
21 you drew was that most of that spatter happened well after
22 the initial shot, right? It was from items falling into
23 the pooling of blood?

24 A. Right.

25 For what I saw, based off of physical evidence,

1 that pool of blood had already been dripping and formed and
2 then something fell into that pool of blood, causing the
3 large area and force in all directions. So that would have
4 occurred, yes, after the pool was already present.

5 Q. So when Mr. Fine was discussing this being a very
6 bloody scene, based on your investigation, most of that
7 occurred well after Mr. Seegan had been shot, correct?

8 A. I believe so.

9 Q. Okay. Now, another thing that you discussed with
10 Mr. Fine was the suicide note that was on the desk, right?

11 A. Yes.

12 Q. Now, you said that you hadn't personally seen typed
13 suicide notes before, correct?

14 A. Correct.

15 Q. But I believe what you also said is it's actually most
16 common for there not to have been any note at all?

17 A. In -- in my experience, probably about 30 percent of
18 the time do I see some kind of a suicide note; and from
19 that 30 percent, they are typically handwritten or texted
20 nowadays.

21 Q. Now, did you do any research into, kind of, suicide
22 globally to see if your experience lines up with nationwide
23 statistics; or is that just kind of anecdotally what you
24 personally have experienced?

25 A. So I respond to crime scenes in the city of Carrollton

1 and my experience is only within the city of Carrollton and
2 this happened in the city of Carrollton.

3 Q. Okay.

4 A. So that's my experience of over a hundred suicides.

5 Q. That's fair.

6 But when you're saying that -- "based on my
7 experience," it's a small subset of global suicides,
8 correct?

9 A. Yes. I haven't been all across the nation. I only
10 work in the city of Carrollton.

11 Q. And you haven't done any outside research or looked at
12 any studies that relate to that, have you, at all?

13 A. I haven't.

14 Q. Now, I think that one of the other items you discussed
15 with Mr. Fine was the difference between a planned suicide
16 and a spontaneous suicide, correct?

17 A. Correct.

18 Q. And the presence of a note led you to believe that this
19 was a planned suicide, not a spontaneous one, correct?

20 A. That's typically what we see.

21 If someone, you know, spontaneously decides to
22 kill themselves, typically there is not a lot of planning.
23 It's only what's available and that's what's used and it's
24 an immediate kind of thing.

25 If something is planned out, sometimes it can be

1 in calendars and you can write out notes and plan out when
2 you want to do something and how you want it to occur.
3 Some people will leave notes for the cops that respond and
4 do all sorts of things.

5 So there is a difference between those, yes.

6 Q. So -- and I think what you're saying is in terms of
7 planned suicide, the level of planning really varies
8 greatly; is that fair?

9 A. That's fair.

10 Q. And so I think you said some people plan it a little
11 bit; they may leave a note. But some people are meticulous
12 planners; and they have calendar events and everything
13 else, correct?

14 A. That's correct.

15 Q. So when you were talking with Mr. Fine about this being
16 a planned suicide, one of the items that was discussed was
17 you would expect to see evidence in the house of firearms
18 being present if a gun was used.

19 Do you remember that part of your testimony?

20 A. I do.

21 Q. But wouldn't it be fair to say that if somebody is
22 planning a suicide, they may dispose of a gun box or
23 ammunition if they don't want that laying around the house?
24 Is that fair?

25 A. That's certainly possible.

1 Q. Now, we looked at a picture of the trash can that had
2 some prescription bottles in it.

3 A. Yes.

4 Q. Do you remember how many prescription bottles were in
5 that trash can?

6 A. I don't. I only viewed it with the vacuum stuff on top
7 of it.

8 Q. There were multiple, though, correct?

9 A. Yes.

10 Q. Do you remember the name that was on those prescription
11 bottles?

12 A. I believe -- and I haven't seen them since the night,
13 but I believe that they were James Seegan's.

14 Q. Now, I want to talk to you a little bit about
15 fingerprints. You talked with Mr. Fine about
16 fingerprinting procedures. Remember that?

17 A. Yes.

18 Q. And you said that as it relates to the firearm, you
19 took that back to your laboratory to process for
20 fingerprints, correct?

21 A. Investigator Bell is the one that physically moved it
22 from the crime scene to our laboratory; but back at our
23 laboratory, I was the one that processed it for
24 fingerprints.

25 Q. And so when you were processing that firearm for

1 fingerprints, did you just process the exterior of the
2 firearm; or did you process different individual
3 components?

4 A. So what we typically do with firearms, we're looking
5 for surfaces that someone might have touched. So the
6 magazine that's inside the gun is something that people
7 readily handle, the bullets that are put in, and that
8 magazine is put in and the exterior.

9 So I did not disassemble the firearm in any way
10 nor does -- that's not our standard protocol. I processed
11 the exterior of the gun, the magazine, and the bullets that
12 had been inside the gun.

13 Q. Okay. So you processed the exterior of the gun for
14 fingerprints, correct?

15 A. Yes.

16 Q. And were any found?

17 A. No.

18 Q. You processed the magazine that was loaded into the
19 gun, correct?

20 A. Yes.

21 Q. Were any fingerprints found there?

22 A. No.

23 Q. And I believe you said you also processed the bullets
24 that were loaded into the magazine because somebody would
25 have had to use their thumb to push those in, correct?

1 A. You could use any finger but yes, correct.

2 Q. Okay. And were any fingerprints found on any of those
3 bullets?

4 A. No.

5 Q. Did you also process the shell casing that was
6 recovered from the scene?

7 A. I did not.

8 Q. Okay. Now, staying on fingerprints for a moment,
9 Mr. Fine asked you if it's typical for you to process the
10 scene as a whole for fingerprints. Do you recall that?

11 A. Yes.

12 Q. And I think you said that it's not common for you to
13 dust the scene of a crime for fingerprints. Is that true?

14 A. No.

15 Q. Okay. So explain to me that again. How does that
16 decision get made, whether or not you dust the scene for
17 fingerprints?

18 A. So the majority of the time we're dusting a scene for
19 fingerprints will be something like a burglary call where
20 someone has broken in and we want to see if someone might
21 have not been wearing gloves and touched items in the house
22 maybe where they broke in or things that we know that they
23 handled, in regards to a burglary.

24 When it comes to larger scenes, we would have to
25 have a lot of suspicious circumstances needed; and we would

1 need to know that we're looking for someone who wasn't
2 present or find out who was at a scene. So if we know who
3 is at a scene, we don't necessarily have to do that.

4 We expect Seegan's prints to be on stuff because
5 he lives there and the family. So it was determined that
6 we would -- we didn't need to fingerprint anything at the
7 scene.

8 Q. Who ultimately is responsible for making that decision?

9 A. So the primary investigator -- crime scene investigator
10 discusses with the primary detective. The primary
11 detective on scene was Detective Lauryl Duncan, so they
12 would have talked about that together and come to a
13 conclusion.

14 Q. And so would that have been Crime Scene Investigator
15 Bell?

16 A. Yes.

17 Q. And you said Detective Lauryl Duncan?

18 A. That's correct.

19 Q. And they would have discussed whether or not it was
20 necessary to fingerprint any areas of the home, correct?

21 A. They would discuss what items they want collected --
22 when we're talking a full crime scene, we have the
23 capability of looking for DNA. We could spend hours going
24 through the carpets, going through every object looking for
25 DNA, trace particles of fibers. It really depends on what

1 we deem is necessary for the crime scene as to what
2 techniques we'll use. Only on something that we know is a
3 murder scene will we, you know, spend eight hours combing
4 through every fiber of the carpet.

5 Q. And I think what you said a moment ago was that a big
6 determining factor in that decision is whether or not you
7 think there had been somebody in the scene that needed to
8 be identified. Is that true?

9 A. When we're looking for fingerprints, that would be the
10 purpose of it, yes, trying to identify someone.

11 Q. Now, you recall Mr. Fine asking you about some Ring
12 camera footage, correct?

13 A. Yes.

14 Q. And you --

15 A. It was Nest video footage.

16 Q. Nest, okay.

17 And that was video camera footage that you
18 reviewed there at the scene, correct?

19 A. I did.

20 Q. And did Detective Duncan view that video?

21 A. I remember that night we were looking at someone -- a
22 phone. I believe it was Seegan's phone. And there were a
23 lot of us standing around watching that.

24 As she was the primary detective, my assumption is
25 that she probably viewed that as well; but I don't recall

1 who all was standing around watching it.

2 Q. And in those videos you said that you saw a man coming
3 in and leaving the home, correct?

4 A. Yes.

5 Q. At that point in the investigation, had that individual
6 been identified?

7 A. I'm not aware that that individual had been identified.

8 Q. Now, is a doorknob something that you would be able to
9 get fingerprints off of?

10 A. In TV shows you can get fingerprints off of lots of
11 surfaces. In real life most door handles have a matte
12 finish. The reason is so that you don't leave
13 fingerprints, because most people don't want fingerprints
14 on all of your stuff. So I rarely find usable fingerprints
15 on door handles.

16 Q. What about the wooden area of a door above or beyond --
17 above or below where the door is when somebody's opening or
18 closing it?

19 A. Doors are another surface that I rarely am able to, at
20 least in my experience, get fingerprints from.

21 Q. You said that the back doors of Mr. Seegan's home were
22 unlocked, correct?

23 A. Correct.

24 Q. Was there any attempt made to look for fingerprints on
25 either of those back doors?

1 A. Not that I'm aware of.

2 Q. Going back quickly to the Nest videos, okay, you said
3 you saw those videos on Mr. Seegan's phone?

4 A. I believe so.

5 Q. Was the phone unlocked and you were able to just open
6 up the application?

7 A. If my understanding is correct, I recall that there was
8 a cell phone and an iPad present in that office. I believe
9 the officers and detectives worked together with Seegan's
10 wife to make sure we had access to the phone and then were
11 able to view what information was present on it.

12 Q. And so when you were looking through the videos, did
13 you look through all of the different camera feeds or just
14 the doorbell camera?

15 A. I only watched what was presented to me. I never
16 handled the phone personally.

17 But I do recall an officer or detective calling us
18 over and viewing that footage on a cell phone.

19 Q. Now, Mr. Seegan had multiple cameras inside of his
20 home, correct?

21 A. I don't know that answer.

22 Q. So you're not aware if there was a camera in the
23 kitchen?

24 A. I only know that there was one in the garage and the
25 front.

1 Q. Okay. And you aren't aware that there was one in the
2 living room?

3 A. Not to my knowledge.

4 Q. Okay.

5 MR. SANDEL: If we could pull up Government's
6 Exhibit 79, page 1, please.

7 BY MR. SANDEL:

8 Q. Okay. You recall looking at this picture, correct?

9 A. Yes.

10 Q. Okay. Now, looking at the front of the home, do you
11 know which of these front window rooms is the office?

12 A. Yes.

13 Q. Okay. Could you point that out to the jury.

14 A. It is the one with the lamp on. It's the northwest
15 upstairs room.

16 Q. Okay. So that's the office?

17 A. It is.

18 Q. One thing I don't see here is the garage. Where is the
19 garage in this home?

20 A. It's located on the back half of the house.

21 Q. So for those of us less familiar with Carrollton, is
22 this one of the neighborhoods where the houses have
23 rear-facing garages and there is an alleyway that runs
24 between the rows of houses?

25 A. I don't know.

1 Q. Okay. But in this case the garage was on the back of
2 the house, correct?

3 A. I do know that.

4 Q. So coming in, is this -- where basically the
5 photographer is standing, is this Cannes Drive?

6 A. This is Cannes Drive.

7 Q. Okay. So to access the garage, you have to go back to
8 the alleyway to pull into the garage, correct?

9 A. I would assume that there is an alleyway to access the
10 back.

11 Q. Now, the back door that you said was unlocked, is that
12 also on that rear of the house?

13 A. Yes.

14 Q. Do you recall in that back alleyway, does the, for lack
15 of a better word, across-the-street neighbor -- does their
16 garage face Mr. Seegan's garage?

17 A. My responsibilities on scene were to check the
18 perimeter for any signs of forced entry; so my attention
19 was on every single window on the first floor, every single
20 door and access point. I didn't spend any time looking at
21 any other houses around the area.

22 Q. So you just don't know one way or the other?

23 A. I never viewed the houses around Seegan's house.

24 MR. SANDEL: Thank you, ma'am. We can pull that
25 down.

1 BY MR. SANDEL:

2 Q. You talked a little bit about how blood reacts once
3 it's outside the body.

4 Do you recall that part of your testimony?

5 A. I don't know if I would use "reacts," but how blood
6 interacts with surfaces.

7 Q. Okay. Well, specifically, you were saying that after a
8 certain amount of time, blood will coagulate.

9 A. Yes.

10 Q. Okay. Do you have any knowledge or understanding of
11 how long that process takes?

12 A. It's very dependent on a lot of factors.

13 Q. Okay.

14 A. The temperature inside the room, if it's a fast -- it
15 will begin to separate and coagulate faster in hot
16 temperatures; whereas in colder temperatures, it can stay
17 together a lot longer. It depends on surfaces and what's
18 in the bloodstream.

19 So it's very individual, but there is guesses that
20 can be made.

21 Q. And is that -- did you do any of those calculations or
22 anything like that during your work on this case?

23 A. I did no calculations on this case.

24 Q. Okay. So on direct examination you said that when you
25 were reviewing the scene, as far as you could tell, the

1 blood pool had not yet begun to coagulate; is that fair?

2 A. The blood pool had started to separate.

3 Q. Okay.

4 A. The serum had started to flow out of the main pool of
5 blood, and there were certainly chunks in the middle
6 section. I didn't poke or prod those chunks, but my
7 assumption was that they were brain matter. I'm not sure
8 if any of those chunks could have been coagulation, but I'm
9 sure there's a lot of things present.

10 Q. Are calculations like that -- could they be useful in
11 determining time of death?

12 A. It's possible. Again, there is a lot of external
13 factors. We need to know what's in the bloodstream, what
14 his body is like. We'd need to know the temperature.
15 There is a lot that an expert would have to take into
16 account.

17 Q. But it's a calculation that's possible, correct?

18 A. I -- I think that there is -- someone could make an
19 opinion on it. I don't think there would be any kind of
20 hard science to say exactly the time of death, but
21 someone -- an expert could make an opinion on it.

22 Q. Now, in terms of those variables that you spoke of that
23 would need to be known, one of them is temperature of the
24 room, right?

25 A. Yes.

1 Q. And this happened indoors, correct?

2 A. What happened indoors?

3 Q. This -- where James Seegan died. He was inside,
4 correct?

5 A. Yes.

6 Q. Okay. So this scene was indoors, right?

7 A. Yes.

8 Q. And the temperature was controlled by the HVAC unit,
9 correct?

10 A. Yes.

11 Q. So that would be a variable that we could find an
12 answer to, correct?

13 A. It was 74 degrees Fahrenheit.

14 Q. 74 degrees.

15 In terms of what was in Mr. Seegan's body, again,
16 that's a variable that we could find an answer to, correct?

17 A. It's possible.

18 Q. Okay. And as far as you know -- and I know that your
19 role in this investigation was limited. But as far as you
20 know, nobody did those types of calculations here, correct?

21 A. A bloodstain pattern analyst wasn't called out to the
22 scene.

23 MR. SANDEL: If we could pull up Government's 79,
24 page 13.

25 *

1 BY MR. SANDEL:

2 Q. Okay. Investigator Powell, this is a shot from inside
3 the office; is that correct?

4 A. It is.

5 Q. All right. Now, if you know, if we look here, do you
6 know if that is the stand where Mr. Seegan's phone was
7 located?

8 A. I believe so.

9 MR. SANDEL: Thank you, ma'am. We can pull that
10 down.

11 BY MR. SANDEL:

12 Q. When you were at the scene, did you have any
13 conversations with the medical examiner?

14 A. I left the scene as the medical examiner arrived.

15 Q. What about Investigator Bell? Was she still there when
16 you left?

17 A. Investigator Bell was still there when I left.

18 Q. Would it be standard for the crime scene investigator
19 to discuss his findings with the medical examiner when they
20 arrive on scene?

21 A. Yes.

22 Q. Do you -- and you may not. Do you have any idea if
23 Investigator Bell did that in this case?

24 A. I wasn't there.

25 Q. Okay. But that is something that would be typical of

1 how you would operate in a situation like this?

2 A. Yes.

3 Q. Now, the chief investigator, you said that was

4 Detective Duncan, right?

5 A. She was the primary investigator.

6 Q. The primary investigator was Investigator Duncan.

7 Would it also be typical for the crime scene
8 investigator to give a rundown to Detective Duncan of all
9 of the things they have observed and found?

10 A. They would have been working heavily together at the
11 scene.

12 Q. So safe to say that any information that you or
13 Investigator Bell had would have been given to Detective
14 Duncan, correct?

15 A. Not on scene necessarily.

16 Q. Okay. But there would be an ongoing communication on
17 the scene between Detective Duncan and Investigator Bell?

18 A. Usually, yes.

19 It's possible that the investigator could be busy
20 getting witness statements or doing something else and not
21 be available or that the crime scene investigator may be
22 busy taking photographs. So that readily sharing of
23 information isn't always possible, but the attempt is made
24 to share information.

25 Q. One of the other things that I recall you testifying

1 about was a telephone conversation that happened while you
2 were riding with Detective Vazquez.

3 Do you remember that?

4 A. Yes.

5 Q. And you testified that while you were in the car,

6 Mr. Ashley called Detective Vazquez to give Detective

7 Vazquez some information, correct?

8 A. Yes.

9 Q. Do you recall when that happened?

10 A. Yes.

11 Q. When was that?

12 A. So I left the scene when the medical examiner arrived.

13 At that point Kelsey Bell would have continued the

14 investigation. I got off work at 7:00. And so after I had

15 been there for a while, myself and Detective Vazquez left

16 the scene. So that would have been still during the

17 investigation.

18 I arrived at 6:21 p.m. I don't -- I don't know
19 for sure the exact time I left the scene, but I would guess
20 that it was probably an hour later. It could have been an
21 hour and a half later; but that would have been 7:30, maybe
22 8:00. But while the investigation was still going on at
23 the scene is when the phone call occurred.

24 Q. And by this point Mr. Ashley had already been contacted
25 by Carrollton PD, correct?

1 A. He had been contacted by Detective Duncan.

2 Q. Okay. So a detective calls Mr. Ashley and informs him
3 what's going on, correct?

4 A. That's what happened, yes.

5 Q. And then sometime later Mr. Ashley calls Detective
6 Vazquez to give -- and I apologize. Is Detective Vazquez
7 male or female?

8 A. Male.

9 Q. Male.

10 So he calls Detective Vazquez to give him some
11 more information that he feels is pertinent, correct?

12 A. Yes.

13 My best guess is that Detective Vazquez's phone
14 had been used when Duncan called Keith Ashley and that then
15 Keith Ashley responded to the same phone number, resulting
16 in him calling Detective Vazquez.

17 Q. Because there is no other way he would have Detective
18 Vazquez's phone number, correct?

19 A. Correct.

20 Q. Now, were you aware or were you ever made aware of what
21 kind of relationship Mr. Ashley had with Mr. Seegan?

22 A. Keith Ashley's name is in the suicide note; and so his
23 name was definitely one used on scene to determine who this
24 person is, you know, if he is listed in the suicide note.

25 There was definitely a determination on who is this person,

1 yes, on scene.

2 Q. So it was clear that there was a relationship there,
3 correct?

4 A. His name was in the suicide note.

5 Q. Are you aware of the relationship between Mr. Ashley
6 and Mr. Seegan's nephew, Kerby Keller?

7 A. I don't know of that nephew.

8 Q. So when Mr. Ashley calls Detective Vazquez and he's
9 providing Detective Vazquez with this -- what he feels is
10 relevant information, was it discussed where he learned
11 about those items?

12 A. He would say "I just found this out" or "I just heard
13 this," meaning that he didn't know the information prior
14 to.

15 And he would say "I just found this out," "I just
16 heard this information," and then would state a statement
17 that I'd seen in the suicide note.

18 Q. So it stands to reason that Mr. Ashley is speaking to
19 somebody, learning information, and then wanting to pass
20 that information along to Detective Vazquez, correct?

21 A. It's not necessarily that he is talking to someone. He
22 certainly wants to tell us that he is.

23 Q. Okay. But it's a reasonable interpretation that that's
24 what's going on. Wouldn't you say that's fair?

25 A. It's coming across -- his words are communicating that

1 he's learning information from someone else, whether or not
2 that's true or not.

3 Q. Now, when you were in Detective Vazquez's patrol car --
4 it was a patrol car, correct?

5 A. I don't know. Our detectives drive detective vehicles.
6 My best guess is that it was a detective vehicle and not a
7 patrol car.

8 Q. Do you know if Detective Vazquez was wearing a body
9 camera during that car ride?

10 A. I know that he had a body camera and that was not on.

11 Q. It was not turned on?

12 A. That's correct.

13 Q. Okay. Before Detective Vazquez answered that phone
14 call from Mr. Ashley, was he able to determine from the
15 caller ID who was calling?

16 A. I don't believe so.

17 Q. When Detective Vazquez answered the phone, did
18 Mr. Ashley identify himself pretty immediately?

19 A. Yes.

20 Q. So at the very beginning of that phone call, Detective
21 Vazquez knew he was speaking to somebody that was relevant
22 to this investigation, correct?

23 A. Detective Vazquez was actively driving while it was
24 raining.

25 Q. Okay.

1 A. And he got a random phone number -- phone call and
2 answered it and then was presented with the information
3 that this is Keith Ashley.

4 Q. Investigator Powell, thank you.

5 MR. SANDEL: I'll pass the witness, your Honor.

6 THE COURT: Additional questions?

7 MR. FINE: None from the government, your Honor.

8 THE COURT: Can the witness be fully excused?

9 MR. FINE: Yes, your Honor.

10 MR. SANDEL: Yes, your Honor.

11 THE COURT: Sir, you are free to leave. Thank
12 you.

13 THE WITNESS: Thank you.

14 THE COURT: Let me ask -- let me have counsel
15 approach.

16 (Sidebar conference, off the record.)

17 THE COURT: Okay. Ladies and gentlemen, we're
18 going to go until about 12:30 and just finish another
19 witness and take lunch a little bit later. Sorry. I know
20 the alarm has -- I was going to give you a longer lunch
21 today; but because of the alarm, we got delayed a little
22 bit. I apologize for that.

23 So, government, if you will call your next
24 witness.

25 MS. RATTAN: Thank you, your Honor. The United

1 States calls Detective Andrew Withers.

2 THE COURT: Sir, if you'll raise your right hand
3 to be sworn in.

4 (The oath is administered to the witness.)

5 THE COURT: Go ahead and proceed.

6 MS. RATTAN: Thank you, your Honor.

7 DIRECT EXAMINATION OF ANDREW WITHERS

8 CALLED ON BEHALF OF THE GOVERNMENT

9 BY MS. RATTAN:

10 Q. Please state your name.

11 A. My name is Andrew, A-N-D-R-E-W, Withers, W-I-T-H-E-R-S.

12 Q. And where do you work?

13 A. The Carrollton Police Department.

14 Q. What do you do there?

15 A. A lot of things, but one of my duties is a detective.

16 I do digital forensics.

17 Q. And your voice kind of trails. Can you speak directly
18 into the microphone?

19 A. Okay.

20 Q. The acoustics in here are very hard.

21 A. I apologize.

22 Q. Okay. So your duties at the Carrollton Police
23 Department?

24 A. I do digital forensics, amongst other things.

25 Q. And when you say "digital forensics," what is that?

1 A. So I analyze phones, data from phones, data from
2 computers, obtain data from computers. I do some video
3 forensic work as well.

4 Q. And can you describe for the jury what your education
5 is? What's your background?

6 A. So I have a bachelor's of science in computer science
7 from The University of Texas at Dallas.

8 Q. And then how long have you been with the Carrollton
9 Police Department?

10 A. I was hired in July 7th of 2004.

11 Q. And then what specialized training do you have in the
12 analysis of cell phones, computers, the investigations that
13 you're involved in?

14 A. So in 2017 I went to a Cellebrite class for a
15 Cellebrite certification at the company in equipment that
16 extracts data from cell phones and also teaches you how to,
17 like, parse the data or determine what data is on the
18 phones.

19 I've also been to a class hosted by the NCFI, the
20 Secret Service -- effectively a sponsored program for
21 digital evidence recovery from computers.

22 And I've been to other classes as well.

23 Q. And in this case were you involved in the downloads of
24 the phones and computers?

25 A. Most of them, yes.

1 Q. Maybe not every single one of them, but you played a
2 large role in supporting the lead detectives in downloading
3 the phones and computers; is that right?

4 A. Yes, ma'am.

5 Q. And, of course, this case would be *United States versus*
6 *Keith Ashley*; is that right?

7 A. That's correct.

8 Q. So the victim was James Seegan.

9 A. Yes, ma'am.

10 Q. Were you asked to download James Seegan's phone?

11 A. Yes, ma'am.

12 Carrollton Detective Duncan requested that I
13 obtain data from the deceased's phone and then later the
14 computer.

15 Q. And then you used a forensic tool to do a download from
16 James Seegan's phone. What was that?

17 A. So I used Cellebrite. There is a technique that
18 allowed a full file system or effectively the -- most of
19 the data off the phone. So I used that technique and
20 obtained a full file system download of that phone.

21 Q. And then before you came into court today, you
22 identified Government's Exhibits 91A and B as being the
23 download of the victim James Seegan's phone; is that right?

24 A. Yes. It's the report of the data on the phone, yes,
25 ma'am.

1 MS. RATTAN: Your Honor, we'll offer Government's
2 Exhibits 91A and B.

3 MR. SANDEL: No objection, your Honor.

4 THE COURT: Okay. 91A will be fully -- will be
5 admitted. 91B had been conditionally admitted before, and
6 I will fully admit it now.

7 BY MS. RATTAN:

8 Q. And were you able to review the phone for -- to
9 determine the last call that was answered on the phone,
10 James Seegan's phone?

11 A. Yes.

12 Q. And, in fact, there's a photograph of that as well; is
13 that right?

14 A. Yes, ma'am.

15 MS. RATTAN: Your Honor, may we publish
16 Government's Exhibit 79, page 46?

17 THE COURT: Yes, you may.

18 Let's see. Government's Exhibit 79, page 46.

19 BY MS. RATTAN:

20 Q. I ask you to look at that and tell us if that is part
21 of the download of the victim James Seegan's phone?

22 A. Yes. That's the photograph of the phone, which
23 corresponds to the information that I was able to obtain
24 from it.

25 Q. And then here we have, at 9:42 a.m., the last call; is

1 that right?

2 A. Yes.

3 Q. Now, there's multiple calls after that, 11:08, 3:39,
4 3:53. But the last answered incoming call was at
5 9:42 a.m.; is that correct?

6 A. That's correct.

7 Q. And then there was also analysis done of the last step
8 logged on James Seegan's phone; is that right?

9 A. Yes, ma'am. Apple will -- Apple iPhones will log what
10 they believe is the person's activity because of the phone
11 movement, and it was able to -- Cellebrite was able to pull
12 that data from the phone and then analyze that data to show
13 the activity.

14 MS. RATTAN: May I approach the witness?

15 THE COURT: Yes, you may.

16 BY MS. RATTAN:

17 Q. Let me show you this. And the date is February 19th of
18 2020 that we're focused on.

19 And let me ask you if this is accurate.

20 A. Yes, ma'am. That appears accurate to me.

21 Q. Okay. So on February 19th of 2020 at 9:33:44 a.m.,
22 James Seegan's last step was logged on his phone?

23 A. Correct.

24 Q. And at 9:42 a.m. a final call was answered on James
25 Seegan's phone?

1 A. Yes, ma'am.

2 MS. RATTAN: May I return, your Honor?

3 THE COURT: Yes.

4 BY MS. RATTAN:

5 Q. Now, did you also do a forensic evaluation or download
6 of Keith Ashley's phone?

7 A. Yes, ma'am.

8 Q. And have you reviewed those exhibits before coming to
9 court today?

10 A. Yes, ma'am.

11 Q. And those would be Government's Exhibits 25A and B, 26,
12 27A and B, and 28A and B; is that right?

13 A. I thought it was 125.

14 Q. Oh, I may have misspoken.

15 125A and B --

16 A. Yes, ma'am.

17 Q. -- 126, 127A and B, 128A and B.

18 A. Yes, ma'am.

19 Q. Okay. Thank you.

20 MS. RATTAN: Your Honor, we'll offer those
21 exhibits.

22 MR. SANDEL: Your Honor, we would object
23 consistent with Document 102.

24 THE COURT: Okay. Anything, Ms. Rattan, in
25 response?

1 MS. RATTAN: I'm not certain what the objection
2 is, your Honor.

3 THE COURT: I'm not either.

4 MR. SANDEL: May we approach, your Honor?

5 THE COURT: Yes.

6 (Sidebar conference, off the record.)

7 THE COURT: The objection will be overruled. I'll
8 go ahead and admit 125A and B, 126, and 127A and B, and
9 then 128A and B as well.

10 Did I do that all right, Ms. Rattan?

11 MS. RATTAN: Yes, your Honor. Thank you.

12 THE COURT: Go ahead and proceed.

13 MS. RATTAN: Okay. Thank you.

14 BY MS. RATTAN:

15 Q. So we've talked about the victim, James Seegan, and
16 your download of his phone and then Keith Ashley and your
17 download of his phone.

18 Let's go back to James Seegan. Did you do some
19 forensic analysis in relation to James Seegan's computers?

20 A. Yes, I did. Again, Detective Duncan requested that I
21 analyze his cell phone and then also some computers from
22 Mr. Seegan's residence.

23 Q. And then before coming to court today, did you look at
24 Government's Exhibit Number 88; and is that the computer
25 download of James Seegan's computer?

1 A. It is documents that were found on Mr. Seegan's
2 computer, or copies of documents that were found.

3 Q. And you were able to forensically retrieve them, and
4 now they are on Government's Exhibit Number 88?

5 A. Yes, ma'am.

6 Q. And Government's Exhibit 88 represents the items from
7 James Seegan's computer?

8 A. Yes, ma'am.

9 MS. RATTAN: We'll offer Government's Exhibit 88,
10 your Honor.

11 MR. SANDEL: No objection, your Honor.

12 THE COURT: Okay. 88 will be admitted.

13 BY MS. RATTAN:

14 Q. Did you also focus on James Seegan's computer and
15 printer?

16 A. To a certain extent. I was analyzing the computer to
17 see if anything was printed from it. I didn't analyze the
18 printer itself. I don't have the technical knowledge to do
19 that.

20 Q. So you looked at the computer, and you were trying to
21 determine whether anything had been printed from the
22 computer?

23 A. Correct.

24 Q. And were you able to tell whether on the morning or
25 during the day of February 19th of 2020 anything had been

1 printed using that computer?

2 A. I did. The Apple OS will log print jobs; and in
3 multiple places I was able to locate artifacts that would
4 indicate that the computer sent a print to a Canon printer,
5 I believe -- a print job to a Canon printer.

6 Q. And what were you able to conclude, if anything, in
7 terms of a time that there was a print job in relation to
8 the computer that was in James Seegan's office?

9 A. So it would have been at 10:17 a.m., that morning.

10 Q. So at 10:17 a.m. on February 19th of 2020, based on
11 your analysis, what happened?

12 A. A print job from that computer originating from the
13 program Microsoft Word printed a document that was named --
14 I believe it was "Microsoft Word-Document 1" -- at that
15 time.

16 Q. Were you ever able to find Document 1 which appeared to
17 be what was presented at 10:17 a.m.?

18 A. No. I was able to locate evidence that Microsoft Word
19 was opened and was basically the focus of that computer,
20 but I was never able to find the actual document.

21 Q. And did you try to locate a suicide note on James
22 Seegan's computer?

23 A. I did.

24 Q. And were you able to find a suicide note on James
25 Seegan's computer?

1 A. No, I was not.

2 MS. RATTAN: May I approach the witness, your
3 Honor?

4 THE COURT: Yes.

5 BY MS. RATTAN:

6 Q. Okay. So we're talking about Mr. Seegan's study there
7 and his computer in his study; and it's February 19th of
8 2020 at 10:17 a.m., a document was printed at James
9 Seegan's home.

10 A. That is accurate.

11 MS. RATTAN: May I return?

12 THE COURT: Yes.

13 MS. RATTAN: Thank you, your Honor. I'll pass the
14 witness.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION OF ANDREW WITHERS

17 BY MR. SANDEL:

18 Q. Officer Withers, good morning. How are you?

19 A. Doing well. Yourself?

20 Q. Pretty good.

21 Just a couple of questions for you. In discussing
22 Government's Exhibit 88, I believe you said that that was
23 an image of certain documents from Mr. Seegan's computer?
24 Did I hear that correctly?

25 A. So that was -- sort of.

1 So that wasn't all the documents from that
2 computer. That was a segment of documents that I
3 identified when I was examining the computer and exported
4 out for, at the time, Detective Duncan to look at.

5 Q. So Exhibit 88 is not a complete image of everything
6 that was on that computer, correct?

7 A. That is correct.

8 Q. Now, you talked about a document that was seemingly
9 printed from that computer at around 10:17 a.m., correct?

10 A. That's correct.

11 Q. Now, where did that 10:17 time come from?

12 A. So it comes from two places. One was the file -- so
13 there is a CUPS file that's created, which is a -- it's
14 like a service that is run to print jobs in Apple and UNIX
15 and Linux operating systems. And that file create time was
16 10:17 if we take into account UTC offsets.

17 And then there is also a log file that logs the
18 CUPS activity that came from there as well, and those times
19 match up.

20 Q. And when I'm on a computer and I hit "print," does that
21 CUPS file get created immediately; or does it only get
22 created when the printer has accepted the print job?

23 A. So actually the file is created when the job is
24 initiated. The log file actually will show job creation,
25 and then there is like three sets -- job creation and I

1 think it returns back that it was created and sent okay.

2 And they were, I think, the exact same second.

3 Q. And you said that when you're kind of doing that math,

4 you have to calculate for UTC offset and --

5 A. Correct.

6 Q. -- that sort of thing?

7 A. Yes, sir.

8 Q. Okay. How long has the Cellebrite technology been

9 available for the forensic imaging of cell phones?

10 A. Oh, as long -- I know longer than I have been doing it,
11 which is in 2017. I don't know the exact date when it
12 started.

13 Q. And when you do a Cellebrite download of a cell phone,
14 it's a complete image of everything that's on that phone,
15 correct?

16 A. So -- I won't say that.

17 Q. Okay.

18 A. I will say both the victim's -- or the deceased's and
19 the defendant's images were file system downloads, which
20 means it should contain -- or does contain, I think is
21 probably a better way, all of the known files on that -- on
22 the known -- I'm trying to figure out a way to word this.

23 Like if you were looking at a computer and you see
24 your C drive, it's going to have all of those. It may not
25 have some of the background information, the background

1 files that allow the firmware of the phone; and it doesn't
2 have empty space on the phone because of the way it works.

3 So there are phones and devices that we can get
4 like a computer where we can get that empty space, but it's
5 not technically everything on -- every bit on a storage
6 device.

7 Q. And you talked with Ms. Rattan about an Apple iPhone
8 logging step activity. Do you recall that?

9 A. I do.

10 Q. Now, the step activity is logged through the cell
11 phone's gyroscope, correct?

12 A. Yes, effectively.

13 Q. So in order for that activity to be logged, somebody
14 has to be carrying their phone with them, correct?

15 A. Yes.

16 Q. So if my phone is over on counsel table, it's not
17 logging my steps right now, correct?

18 A. Correct, unless you have an Apple Watch, but yes.

19 MR. SANDEL: Pass the witness, your Honor.

20 THE COURT: Anything additional?

21 MS. RATTAN: No, your Honor.

22 THE COURT: Can this witness be fully excused?

23 MS. RATTAN: Yes, please.

24 MR. SANDEL: Yes, your Honor.

25 THE COURT: Thank you, sir. You are free to

1 leave.

2 We'll go ahead and take our lunch break now.

3 We'll go a little bit longer.

4 And then let me just advise I've been informed
5 regarding the issue with the fire alarm being set off.
6 Someone apparently was vaping in the elevator.

7 One thing is, smoking and vaping is not permitted
8 in the courthouse; and if vaping devices are found, the
9 court security officers will confiscate those or make you
10 take them and put them back in your vehicle.

11 So that's what has been explained to us is what
12 set the alarm off. We knew it was elevator-generated, but
13 that's what we were able to determine. So I just wanted to
14 apprise everyone of what caused that situation. It is not
15 the first time we've had someone try to smuggle vaping
16 things into the courthouse; but, again, it is not
17 permissible.

18 So I hope you have a good lunch. We'll go ahead
19 and come back at 1:30, again, because I have a conference
20 call from 1:00 to 1:30 for something unrelated to this
21 case.

22 So please don't discuss the case among yourself or
23 anyone else. Don't do any outside research. We'll start
24 back at 1:30. Have a good lunch.

25 (The jury exits the courtroom, 12:16 p.m.)

1 THE COURT: Anything further from the government?

2 MS. RATTAN: No, your Honor.

3 THE COURT: Anything further from defense?

4 MR. SANDEL: No, your Honor.

5 THE COURT: Okay. See you back at 1:30.

6 (Recess, 12:17 p.m. to 1:32 p.m.)

7 (Open court, defendant present, jury present.)

8 THE COURT: Okay. Please be seated.

9 Your next witness?

10 MR. COMBS: The government calls Special Agent
11 Mark Sedwick.

12 THE COURT: Sir, if you'll raise your right hand
13 to be sworn in.

14 (The oath is administered to the witness.)

15 MR. COMBS: May I proceed, your Honor?

16 THE COURT: Yes, you may.

17 MR. COMBS: Thank you.

18 DIRECT EXAMINATION OF MARK SEDWICK

19 CALLED ON BEHALF OF THE GOVERNMENT

20 BY MR. COMBS:

21 Q. Sir, could you please state your name and spell your
22 last name.

23 A. Mark Sedwick, S-E-D-W-I-C-K.

24 Q. And where are you employed?

25 A. I'm a special agent with the Federal Bureau of

1 Investigation in the Dallas office.

2 Q. How long have you been with the FBI, Special Agent
3 Sedwick?

4 A. Over 24 years.

5 Q. Tell us -- why don't you tell the jury about your
6 education before you came to the FBI.

7 A. I have a Bachelor of Science in history from the United
8 States Naval Academy.

9 Q. And so you were Naval Academy. Did you go into the
10 Navy or the Marine Corps?

11 A. I was in the Marine Corps for five years as an
12 artillery officer.

13 Q. So after your time in the Marine Corps, what did you
14 do?

15 A. That's when I came into the Bureau.

16 Q. So did you come into the Bureau as a special agent?

17 A. Yes, sir.

18 Q. Tell the members of the jury what training you had when
19 you became a special agent.

20 A. Had the academy at Quantico which covers pretty much
21 everything to be a basic agent.

22 Then I was assigned to the Houston office where I
23 worked illegal narcotics and then -- for several years,
24 spent a small stint in counterterrorism, then started
25 working violent crime in Houston.

1 Then I transferred -- in 2012 I transferred to the
2 Dallas office, worked public corruption for about a year,
3 then went back to work in violent crime, and then
4 started -- in 2014 I became a member of the CAST team and
5 started doing that full-time.

6 Q. You said a CAST unit. What is -- is that an acronym?

7 A. Yes, sir.

8 Q. What does it stand for?

9 A. The CAST team is the Cellular Analysis Survey Team.

10 Q. And what does the CAST team do?

11 A. What the CAST team is is a group of specially trained
12 agents and task force officers who have been certified as
13 experts in the analysis of historical call detail records.

14 Q. So what type of cases does the CAST teamwork on?

15 A. Our priorities are first any threat to life, as in
16 kidnapping, missing persons. We do a lot of fugitive
17 investigations.

18 And then we'll work any Bureau cases; but the CAST
19 unit was actually created to assist state and local
20 agencies in homicide investigations, violent crime, stuff
21 like that.

22 Q. So when we receive Amber alerts on our phones, those of
23 us in the courtroom, are you on the other end of -- the
24 important end of trying to determine where that person is
25 sometimes?

1 A. That's what -- one of the biggest things we do as a
2 CAST unit is we will use our skills to locate that victim.

3 Q. Okay. And have you had success in doing that, in
4 rescuing people in the past?

5 A. Yes, sir.

6 Q. You said the other side of that was part of the
7 investigative side, right? So you have a reactive side you
8 just talked about, and then there is the investigative
9 side. Tell the members of the jury what the investigative
10 side is.

11 A. It will vary by case, but I tend to -- actually most of
12 my work tends to be for state or local cases. So I will be
13 contacted either through -- by a detective, a assistant
14 district attorney, or just through the CAST unit itself and
15 be asked if I can assist in a case.

16 And I'll be given the call detail records, the
17 phone records for certain devices and then the basics of
18 the investigation. I don't need to know the full -- what
19 everything is; but I need to know the pertinent time
20 frames, the pertinent phones, the pertinent locations so I
21 can determine the approximate location of phones or devices
22 during those pertinent time frames.

23 Q. And you have tools that help you do that, right?

24 A. Yes, sir.

25 Q. What are the tools that you use?

1 A. We just use a -- we use different mapping softwares.
2 When I first started, we did it pretty much by hand in what
3 was called Streets & Trips; and now we just have more
4 robust mapping software to assist us.

5 But I just use mapping software to take the towers
6 and then the usage of the devices to show physically on the
7 ground the approximate location of those devices.

8 Q. Do you use typically the phone download, the download
9 of a phone; or do you use a different source of data?

10 A. No. What we use it what's referred to as call detail
11 records, or CDRs; and these are records that are kept in
12 the normal course of business by the phone company.

13 And what a CDR is is basically your phone bill.
14 It has the date and time a call or text was made, if it was
15 an incoming/outgoing call, the two numbers involved, the
16 length of the call. But for me most importantly, it gives
17 me the tower and sector of the tower that the -- that
18 device utilized for that call.

19 Based on that data and the ensuing network -- like
20 for AT&T, knowing where that tower is and all of the
21 surrounding towers are, I can determine the approximate
22 location that device had to be when that call or text
23 occurred.

24 Q. With this specialized skill that you have, are you
25 frequently called upon to testify?

1 A. Yes, sir.

2 Q. Have you testified as an expert before?

3 A. Yes, sir.

4 Q. How many times?

5 A. Over 90 times in both state and federal court.

6 MR. COMBS: Your Honor, the government would move
7 to admit Special Agent Sedwick as an expert in historical
8 call detail record analysis.

9 MR. SANDEL: No objection, your Honor.

10 THE COURT: Okay. He'll be treated as such.

11 MR. COMBS: Thank you.

12 BY MR. COMBS:

13 Q. Sir, as a part of your investigation of this case --
14 that is, the case that's involving Keith Todd Ashley --
15 were you called upon to review certain records?

16 A. Yes, sir.

17 I was provided AT&T records for a device that I
18 was told was associated with Mr. Ashley.

19 Q. All right.

20 MR. COMBS: May I approach the witness, your
21 Honor?

22 THE COURT: Yes, you may.

23 BY MR. COMBS:

24 Q. Sir, I'm showing you what's been marked as Government's
25 Exhibit 4A, which is a disk, and then 4B, which are already

1 in evidence.

2 Are those some of the call detail records that you
3 were asked to evaluate in this case?

4 A. Yes, sir.

5 Q. All right. Thank you. We'll put that behind you so it
6 doesn't obstruct the jurors' view.

7 When these call detail records come to you, are
8 they fairly voluminous?

9 A. Yes, sir.

10 Q. Hundreds of pages long?

11 A. Yes, sir.

12 Q. And the -- you also have a different side to that, and
13 that is the location of the cellular towers; is that right?

14 A. Yes, sir, what we refer to as a tower list.

15 Q. Okay. And do you marry those two things up?

16 A. Yes, sir.

17 In my general analysis I'll take the call detail
18 records I'm provided and then the tower list from the
19 contemporaneous time frame, because I might work an
20 historical case where -- you know, a case from back in
21 2017, '18, sometimes even farther.

22 I don't want to use the towers that are in
23 existence now because the network is not the same, so I'll
24 use the towers in existence at the time that I'm analyzing
25 along with the call detail records.

1 Q. Okay. So you figure out what the relevant time is,
2 right?

3 A. Yes, sir.

4 Q. And then you marry those records up with what was
5 existing at that time?

6 A. Yes, sir.

7 Q. Okay. And, in fact, do towers change? Like they may
8 go from one technology in a tower to a different
9 technology?

10 A. Yes, sir. They'll -- they can -- there are several
11 ways -- like as they have evolved from 2G to 3G to 4G, they
12 sometimes don't have to change antennas or anything.
13 They'll just change the software behind it so it now
14 becomes a 4G tower, not a 3G tower.

15 Or they sometimes have to build new structures.
16 As populations increase they will need to sometimes build
17 new structures in an area to provide that service.

18 Q. And it's important for you to know that so that you can
19 make the right calculations as you do your analysis; is
20 that right?

21 A. Yes, sir.

22 Q. Okay. And if you were to sit here with the jury and
23 take the latitude and longitude of every time a phone
24 pinged off the tower and put it onto a map for them, would
25 that take hours, if not days?

1 A. Yes, sir.

2 Q. Do you shrink that down into a fairly concise report to
3 prepare for the jury?

4 A. Yes, sir, I do.

5 MR. COMBS: Your Honor, the --

6 BY MR. COMBS:

7 Q. And, actually, if you could look with me --

8 MR. COMBS: May I approach, your Honor?

9 THE COURT: Yes, you may.

10 BY MR. COMBS:

11 Q. Let me show you what's been marked as Government's
12 Exhibit 96. It's probably in the binder in front of you.

13 A. Yes, sir, it is.

14 Q. Okay.

15 A. 96?

16 Q. Yes.

17 Looks like you've got a handle on it, so I'm going
18 to return.

19 Do you recognize that?

20 A. Yes, sir. It's a copy of my report.

21 Q. Okay. That's the report you prepared in this case
22 based on those voluminous records?

23 A. Yes, sir.

24 Q. All right.

25 MR. COMBS: Your Honor, the government would move

1 to admit Government's Exhibit 96.

2 MR. SANDEL: Your Honor, may I take him on just a
3 brief *voir dire*?

4 THE COURT: Yes, go ahead. You can do it from
5 there.

6 VOIR DIRE EXAMINATION OF MARK SEDWICK

7 Q. Agent Sedwick, when you're examining Exhibit 96 --

8 A. Yes, sir.

9 Q. You said the records that you used to compile that were
10 provided by AT&T, correct?

11 A. Yes, sir.

12 Q. Did you have to utilize any information from
13 Mr. Ashley's physical phone?

14 A. No, sir.

15 MR. SANDEL: Thank you, your Honor. No objection.

16 THE COURT: Okay. 96 will be admitted.

17 MR. COMBS: All right. Thank you.

18 May we publish page 1 of 96?

19 CONTINUED DIRECT EXAMINATION OF MARK SEDWICK

20 BY MR. COMBS:

21 Q. And what is this?

22 A. This is basically just a cover sheet. It shows the
23 telephone number that I did my analysis on, or numbers,
24 depending on the case, and then the date my report was
25 finalized.

1 Q. Okay.

2 MR. COMBS: Next page, please.

3 BY MR. COMBS:

4 Q. Walk through the jury. How do you conduct this
5 analysis?

6 A. First, I -- for background, I was asked by the U.S.
7 Attorney's Office to analyze phone records for telephone
8 number 972-658-6113, believed associated with a homicide on
9 February 19th of 2020.

10 The methodology I've talked about a little before.
11 I take those call detail records and then the concurrent
12 call tower list -- the cell tower list, excuse me.

13 And I will first map all the cell towers on the
14 map, and then I'll map the individual usages as there was
15 usage on the phone.

16 And then I can -- by that, I can determine the
17 approximate location of the device when those calls or
18 texts were made.

19 Q. Okay. And what about cell site locations?

20 A. Just as I stated, that's --

21 Q. Okay.

22 A. -- basically the latitude and longitude of where those
23 cell towers are.

24 And then my conclusions will be in the following
25 slides.

1 Q. Okay.

2 MR. COMBS: If we could go to the next slide,
3 please.

4 BY MR. COMBS:

5 Q. Is sector orientation and understanding sector
6 orientation important for the jury as we move on to the
7 next slides?

8 A. Yes, sir.

9 Q. It's very important for them to understand the
10 methodology you're using so they can understand the slides
11 that follow; is that right?

12 A. Yes, sir, and how -- also how the phone and the network
13 are designed to interact.

14 Q. Okay. Can you explain what the members of the jury are
15 looking at there?

16 A. Yes.

17 So what this is is on the left side your typical
18 cell phone tower that you'll see on the side of the
19 highway. But if you've ever actually taken the time to
20 actually look at one, you'll notice that there are three
21 distinct sides to that tower.

22 The vast majority of towers in the United States
23 are broken up into three sectors or pieces of pie. Those
24 sectors each cover approximately 120 degrees. It's
25 actually a little larger than 120 degrees for some overlap

1 in coverage.

2 But in the records what I'm given is not only the
3 tower and sector but what azimuth or the orientation of the
4 center of that sector is. So if I'm given an orientation
5 of 60 degrees, that tower will cover from approximately
6 0 degrees to 120 degrees.

7 On a clock face, every hour is equal to
8 30 degrees, 360 degrees in a circle; so an azimuth of
9 60 degrees would be 2:00. So that sector would cover
10 approximately from 12:00 to 4:00 on a clock face.

11 Q. Okay.

12 A. And then -- and that's basically how the network -- the
13 towers themselves are built in the network.

14 Q. Okay. Now --

15 MR. COMBS: Next slide, if we could.

16 BY MR. COMBS:

17 Q. And there is an illustration of how that works?

18 A. Yeah. This demonstrates how I'm going to display the
19 approximate coverage area of a cell tower in the following
20 slides.

21 As you can see, in this case this tower is
22 oriented at 0 degrees; so it's oriented straight up. You
23 see that sector arms to either side of that, 60 degrees to
24 either side of that center azimuth.

25 And then that shaded area is just to show how the

1 energy goes out from the tower in an upside down funnel
2 kind of shape. It's not inclusive of the coverage area.
3 The coverage area is actually larger than the shaded area.
4 It's determined by the other towers around. I can't say
5 exactly where the coverage area of one tower ends. That's
6 why we use that small shaded area, just to kind of show how
7 the energy is going out from the tower.

8 Q. Okay. And let's talk about coverage areas there. On a
9 cell tower what is -- what controls the area of coverage,
10 that is, how far out a phone can be and still use that
11 particular tower?

12 A. That's all going to depend on where you are on the
13 planet. In urban areas towers are much closer together.
14 In, like, Downtown Dallas the towers might be only a couple
15 blocks apart; so it would be very small coverage areas.

16 You get to suburbs, it tends to be a mile, mile
17 and a half.

18 You get out into East Texas where there's not a
19 lot of population, it could be 10 or 15 miles between
20 towers.

21 It all just depends on the population base in that
22 area so they can -- the companies can provide the service
23 to their customers.

24 Q. And if you're in, you know, a football stadium, how
25 much coverage is a tower going to have?

1 A. I used -- I'm from Ohio originally, so I use the Ohio
2 State horseshoe stadium.

3 During the week when there is no game on, there is
4 a couple big towers outside the stadium that provide plenty
5 of coverage to that area.

6 When there's a game, they turn on what they call
7 little picocells. They're small little cells. They're
8 360 degrees, but they might cover a hundred feet. And
9 there are hundreds of them inside the horseshoe so --
10 because everyone -- you know, nowadays people are watching
11 the game -- half the people are watching the game on their
12 phone at the game. They're texting their friends. So they
13 have to turn all those on during a football game to provide
14 the coverage; and then when it's not, they'll turn them
15 off.

16 Q. So sometimes some towers may only cover a couple
17 hundred meters or feet even --

18 A. Yes, sir.

19 Q. -- is that right?

20 Okay.

21 MR. COMBS: Could we go to the next slide, please.

22 BY MR. COMBS:

23 Q. What's the jury looking at here?

24 A. This is the -- basically the target phone and map
25 legend. So I was provided records for telephone number

1 972-658-6113. Its provider is AT&T.

2 And I was told this phone was associated with a
3 Mr. Keith Ashley. And then I was provided three addresses,
4 crime scene of 2114 Cannes Drive in Carrollton, Texas;
5 Mr. Ashley's residence, 1211 Boerne Court in Allen, Texas;
6 and then his business, Nine Band Brewing, 13 Prestige
7 Circle in Allen, Texas.

8 And then also when you'll see the following maps,
9 there will be blue dots all over them. Every little blue
10 dot is an AT&T tower.

11 Q. All right.

12 MR. COMBS: And while we're still on this slide,
13 could we pull up Government's Exhibit 79, page 28.

14 BY MR. COMBS:

15 Q. This is already in evidence. And I haven't covered
16 this with you, but this is something the jury has already
17 seen. Now, this is a purported suicide note; and the last
18 line of that says, "My last friend Keith Ashley."

19 Is that the person whose name was associated with
20 the phone number you were given?

21 A. Yes, sir.

22 Q. And then on this purported suicide note it has a number
23 of 972-658-6113. Is that the same number you analyzed?

24 A. Yes, sir.

25 Q. Okay.

1 MR. COMBS: Thank you. We can take that down.

2 And go to the next page, please, page 6.

3 BY MR. COMBS:

4 Q. You had said earlier that you were asked to look at
5 these records for February 19th, 2020, right?

6 A. Yes, sir.

7 Q. When did you begin your analysis that morning?

8 A. I basically began 7:29 a.m., that morning; and then I
9 ran through about till 9:00 that evening.

10 Q. Okay. Looking at the -- I guess the right half of this
11 slide, this area right here --

12 MR. COMBS: Could we zoom in on that, please.

13 BY MR. COMBS:

14 Q. What are we looking at here?

15 A. This is the usage of the device at 7:29 and 7:32.

16 There are two outgoing calls.

17 And I don't think I stated how the phone actually
18 interacts with the cell tower.

19 Q. Uh-huh.

20 A. So when your phone is just sitting in your pocket, we
21 refer to it as "idle mode." You're not actively in a call
22 or a text. What an AT&T phone is going to look for, the
23 AT&T towers; and it's going to look for the tower that has
24 the strongest signal with the least amount of interference,
25 generally the closest tower.

1 And when you're not using your phone, it will what
2 we refer to as "camp" on that tower. Every tower is
3 constantly broadcasting a signal over a control channel.
4 That's what the phone is listening for. When you hit
5 "send" on your phone, you reach out on that control
6 channel; and that is the tower and sector that is populated
7 into the call detail records, the tower that the phone
8 chose at the beginning of the call.

9 For an incoming call, the network doesn't track
10 where every single phone is camped on. It just knows the
11 general area. Like right now the network knows my devices
12 are in the Sherman, Texas, area.

13 So if my phones were actually on and I got a phone
14 call, the network would page all the towers in the Sherman
15 area; and I would respond to the tower I see the best at
16 that moment in time. That would be what would populate the
17 call detail records with the tower and sector the phone
18 sees the best at that point in time.

19 Q. Okay. So you said earlier that the green square is
20 Mr. Ashley's home, right?

21 A. Yes, sir.

22 Q. That was in the legend.

23 And then there are these two outgoing calls at
24 7:29 and 7:32. And is it -- this the tower that
25 Mr. Ashley's phone saw the best --

1 A. Yes --

2 Q. -- or --

3 A. -- for those two calls.

4 And what I can say is that cell tower has a
5 coverage area that includes his residence.

6 Q. Okay. And the two arms that are coming out from that,
7 what are those?

8 A. That's -- this tower is oriented at 128 degrees. So
9 that's the 60 degrees to either side of that 128-degree
10 center azimuth.

11 Q. Okay. So that's the sector that's capturing this
12 phone. So if you drew those lines out, we would see that
13 the phone comes into -- is somewhere within this sector; is
14 that right?

15 A. Yes, sir.

16 Q. And can you say whether it was down here at Giant Party
17 Sports Paintball & Airsoft Park or whether it was here at
18 the house?

19 A. No, sir. All I can say is that the phone was within
20 the coverage area of that tower and sector when that call
21 was made.

22 Q. Okay.

23 A. I can't say where within the sector.

24 Q. But you know it's 7:29 a.m. and it's in the sector that
25 includes Mr. Ashley's home?

1 A. Yes, sir.

2 Q. Okay. All right.

3 MR. COMBS: If we could zoom back out and go into
4 the other side there.

5 BY MR. COMBS:

6 Q. Explain for the jury what's happening here.

7 A. So obviously I can only plot when there is usage on the
8 device; so if there is no calls or texts being made, there
9 is nothing for me to plot.

10 So after 7:32 there is about an hour and
11 11 minutes and then the next activity on the phone was an
12 incoming call at 8:43 a.m. and at this time the phone was
13 utilizing a tower and sector that has a coverage area that
14 includes the Nine Band Brewing.

15 Q. All right. And am I correct that the Nine Band
16 Brewing and the tower are very close to each other?

17 A. Yes, sir. They're -- it's just immediately behind the
18 building.

19 Q. Okay. And have you gone out and driven this route just
20 to get your eyes on what's happening in these areas?

21 A. In every case if I can't do a drive in the area, I will
22 at least do a map reconnaissance, Google Earth or something
23 like that, to determine the towers are there, where the
24 devices -- what it actually looks like on the ground.

25 Some cases I'm able to do that. Other cases,

1 especially if it's out of town, I might fly in the morning
2 of the testimony and not have the ability to do that.

3 But I will always at least do a map reconnaissance
4 to determine the terrain and everything in the area.

5 Q. Okay. And you did reconnaissance in this case?

6 A. Yes, sir. I did this actually on Tuesday.

7 Q. Okay.

8 MR. COMBS: All right. If we could zoom out and
9 go to the next slide, please.

10 And zooming in to this area here, if we could.

11 BY MR. COMBS:

12 Q. We have the house on the right-hand side, the Nine Band
13 Brewing up at the top in the center, and then a blue dot in
14 the middle with the sector mark. What's happening here?

15 A. Basically this is -- this time frame is going to be
16 from 8:49 to 8:57, and it just kind of shows the -- this
17 time frame on several slides is going to show the movement
18 of the device.

19 But at 8:49 there are two incoming calls actually
20 one second apart. But the phone has now moved south, most
21 logically down 75, and has moved south from the brewery.

22 Q. Okay. Any chance that that phone is still sitting up
23 here at the brewery and pinging off this tower down here?

24 A. No, sir.

25 Q. Okay. Why not?

1 A. As you can see, there are several towers in between;
2 and also the orientation is away from that location. The
3 engineers who design the networks -- there is a built-in
4 overlap because since phones are mobile, they want you to
5 be able to see multiple sectors at one time just so as you
6 are moving around there is not a hard line between.

7 But they don't want more than, you know, a couple
8 layers of towers. If there is more than one layer of
9 towers, they don't want those towers interfering with each
10 other because that can cause just network interference
11 within the network.

12 Q. And I notice as we're looking at this map, if you look
13 over here in more rural areas like near Murphy or the large
14 Bob Woodruff Park, the towers are very far apart.

15 But as we get further south and we are down into
16 Plano and particularly along the corridor of --

17 Is this the George Bush right here?

18 A. Yes, sir.

19 Q. -- and along the George Bush corridor the towers get
20 very close together. Why is that?

21 A. Just because there's more people, so they need to have
22 more towers to provide that proper coverage.

23 Q. So would you expect that as a -- as you get closer and
24 you're in these areas, these built-up areas where there's
25 many towers that are close together, that you're going to

1 be -- get a more accurate designation of where that phone
2 is?

3 A. I could just say it will be just a smaller coverage
4 area.

5 Q. Uh-huh.

6 A. So I could, you know, say it's a smaller coverage area;
7 but I can still only say the phone is within the coverage
8 area of that tower and sector.

9 Q. Okay.

10 MR. COMBS: If we could zoom out and go to the
11 next call, please.

12 BY MR. COMBS:

13 Q. So we looked just now at from 8:49 to 8:57 and then to
14 the next slide.

15 A. So this is the next in that time frame to 8:50. So the
16 phone has started to move or possibly because the overlap
17 in the network, but it is in the same general area at this
18 time, but it's still within, you know, kind of the 75
19 corridor.

20 Q. Uh-huh. So at 8:49 there is a call that is a -- that's
21 in this area of Plano, right?

22 And then at 8:50 there is an SMS. What's an SMS?

23 A. That's a text message.

24 Q. Okay. So there's a text message. Is that -- can you
25 tell from looking at the call records whether it was sent

1 or received?

2 A. No, sir. Just the way our -- with AT&T records I'd
3 have to look at the raw records to see if it was an
4 incoming or outgoing text.

5 Q. Uh-huh. So -- but an SMS was either sent or received,
6 and he's a little further south -- or the phone is a little
7 further south when that happens; is that right?

8 A. Possibly.

9 Q. Okay. Or at least he's pinging off a tower that's a
10 little further south --

11 A. Yes, sir.

12 Q. -- a minute later.

13 Okay.

14 MR. COMBS: Next slide.

15 BY MR. COMBS:

16 Q. What's happening here?

17 A. So as we continue -- and that's why I said "possibly,"
18 because you can see at 8:50 it's on the tower a little to
19 the south. 8:51 it's to the -- that tower to the north.
20 So that's that built-in overlap of the network because that
21 phone logically is traveling down 75; so, you know, it just
22 saw a slightly better signal from the one from the north at
23 8:51.

24 But then if we go to the next slide, it drops back
25 to that other tower immediately after that. But that's --

1 that's a very -- for me, that makes perfect sense even if
2 he's traveling -- the device, excuse me, is traveling down
3 75 because of the built-in overlap of the network.

4 Q. Okay. Why would a device change from tower to tower as
5 you travel along an area?

6 A. It could be just a slight terrain difference. You
7 know, that overlap, if you're in that sweet spot, it can be
8 a matter of moving 10 feet.

9 I had -- the best example I ever had is I had a
10 fugitive case where when I looked at his records in the
11 morning his phone -- he used one tower, and then in the
12 afternoon he used another tower. They faced each other,
13 and his house was almost equidistance between the two.

14 When we arrested him, I just asked him, "Man,
15 where do you hang out?"

16 He goes, "Well, during the day I hang out in this
17 room because we move the AC in that room; and then at night
18 when we go to the bedroom, I move over to this side of the
19 house and we take the AC unit in there."

20 And that was the sides of the house that is closer
21 to those towers; so that movement of literally 10 feet
22 caused, you know, the tower to shift. But that house sat
23 right in the overlap of those two towers.

24 Q. Okay.

25 MR. COMBS: Could we go to the next slide, please.

1 BY MR. COMBS:

2 Q. We're still from 8:49 to 8:57 a.m.

3 A. And as I said, you know, at 8:51 and 8:52 it moved back
4 down to the more southern tower; so it's still tracking
5 with the phone traveling down -- south down 75.

6 Q. Okay. A lot of outgoing calls and incoming calls
7 during this time.

8 A. Yes, sir.

9 MR. COMBS: Next slide.

10 BY MR. COMBS:

11 Q. We're still on the same time frame. What's happening?

12 A. So at 8:54 the phone has moved farther west. So
13 logical route, again, would be it jumped onto the George
14 Bush Turnpike.

15 Q. Okay. And, in fact, it's pinging off a tower that's
16 right next to the George Bush Turnpike --

17 A. Yes, sir.

18 Q. -- is that right?

19 MR. COMBS: And if we could zoom out on that same
20 one.

21 BY MR. COMBS:

22 Q. What is the red mark that we're looking at over here?

23 A. Yes, sir. That's the crime scene.

24 Q. All right.

25 MR. COMBS: Next page.

1 BY MR. COMBS:

2 Q. And what's happening here?

3 A. And then just at 8:57 the phone continues to move west.

4 Q. Okay. So this is the call that we looked at on the

5 last slide; and this is the next new call, is that right,

6 3 minutes later, moving a little further west on the

7 George -- or in the vicinity of the George Bush?

8 A. Yes, sir.

9 Q. Okay.

10 MR. COMBS: Next slide.

11 A. This --

12 BY MR. COMBS:

13 Q. Now, does this slide change time periods? We've been
14 looking at the time period of 8:49 to 8:57. What time
15 period are we looking at here?

16 A. This is 9:10 a.m. to 10:21 a.m. on February 19th.

17 Q. Why is there a 13-minute gap there where there is no --
18 you end off at 8:57 and you pick back up at 9:10. Why is
19 that?

20 A. There is no activity on the phone for that 13 minutes.

21 Q. Okay. So where is he when he picks up on the phone, or
22 where is -- what tower is he pinging off of?

23 A. He's utilizing two towers but -- you know, 9:10 to
24 10:21 a.m. it's utilizing those two towers; and both of
25 those towers with that overlap have a coverage area that

1 includes the crime scene.

2 And then at 9:11 a.m. there is a phone call from
3 the phone associated with Mr. Ashley to the device -- to
4 the victim's device that lasts 45 seconds.

5 Q. And on the screen to your -- which will be to your
6 right there, if you turn around and look at the screen to
7 your right, you can write on that screen.

8 A. Ah.

9 Q. Can you highlight for the members of the jury the call
10 you're talking about that is associated with the victim's
11 phone?

12 A. It's going to be this one down here, 9:11 and
13 24 seconds.

14 Q. Okay. 9:11 and 24 seconds is when this -- is it an
15 outgoing call to the victim's phone or incoming?

16 A. It's an outgoing call from the phone associated with
17 Mr. Ashley to the number that I was told was the victim's
18 phone number.

19 Q. Okay. And so how long is the phone associated with
20 Mr. Ashley in this sector here?

21 A. Basically from 9:10 to 10:21 a.m., so roughly an hour
22 and 10 minutes.

23 Q. Okay. And he doesn't ping off any other towers during
24 that time?

25 A. The tower -- just that also tower just to the north of

1 the crime scene --

2 Q. Okay.

3 A. -- also has activity during this time frame.

4 Q. Now, that ends off at 10:21 a.m., that particular
5 slide.

6 MR. COMBS: Could we go to the next slide.

7 BY MR. COMBS:

8 Q. And can you tell the members of the jury, when does
9 that slide pick up, the very next slide?

10 A. So the next activity on the phone was at 10:33 and
11 the -- again, I just broke up this into two different
12 slides. But from 10:33 to 10:34 it's utilizing a tower
13 that has a coverage area along the George Bush Turnpike a
14 little to the north and east of the crime scene, and there
15 were two calls.

16 At 10:33 a.m. there was a call to the victim's
17 device. And the victim also had an AT&T phone. I did not
18 have records for the victim's phone. But one of the quirks
19 of AT&T records, if you call -- if an AT&T phone calls an
20 AT&T phone, I see the other side of that transaction. I
21 don't get tower information for that. I'll just see -- so
22 I can tell what the completion was.

23 So based on that, I could tell that that call at
24 10:33 a.m. went to the voicemail of the victim's phone.

25 Q. Okay. So that was not a call that was picked up?

1 A. No, sir. It went to voicemail.

2 Q. All right.

3 MR. COMBS: Could we zoom out here?

4 BY MR. COMBS:

5 Q. So at 10:33:50 the phone associated with Mr. Ashley
6 that's on the purported suicide note is no longer near the
7 crime scene; is that right?

8 A. No, sir.

9 Q. Okay.

10 MR. COMBS: Could we go to the next slide.

11 BY MR. COMBS:

12 Q. What's happening here?

13 A. 10:34 a.m. again there was another call from the device
14 associated with Mr. Ashley to the victim's phone, and it
15 has moved to a tower just to the south.

16 So it's possible the phone turned around; or it's
17 possible it was still going -- you know, this close in
18 time, these two towers right next to each other, with that
19 overlap being built in, I can't say what happened; but it
20 did move to the tower to the south.

21 Q. Okay.

22 MR. COMBS: Could we go back to page 13, please.

23 BY MR. COMBS:

24 Q. So last we knew, at 10:21 -- that is, right down here,
25 this outgoing call -- the phone associated with Mr. Ashley

1 was in -- somewhere in that area?

2 A. Yes, sir.

3 Q. Okay.

4 MR. COMBS: Now if we could go to Slide 16.

5 BY MR. COMBS:

6 Q. And then it had traveled northbound; is that right?

7 A. Yes, sir, north and west -- or, excuse me, north and
8 east. I apologize.

9 Q. Okay. Now, what happens next?

10 A. These were -- well, you jumped ahead so --

11 Q. Okay.

12 MR. COMBS: Can we go back a slide? I'm sorry.

13 A. Yeah.

14 So we have at 10:33 and 10:34 the two calls. One
15 went to voicemail; one basically was a zero-second. So he
16 dialed it and then hung up, most likely, with zero seconds;
17 so it probably never made a connection to the other device.

18 And then there is a 14-minute gap in time.

19 If we go to the next slide.

20 MR. COMBS: Next slide.

21 A. There is a 14-minute gap in time, and then it -- the
22 phone is moved just slightly farther along the George Bush
23 Turnpike corridor.

24 BY MR. COMBS:

25 Q. And that's the 10:48 call?

1 A. Yes, sir.

2 Q. And 10:49?

3 A. It continues traveling east.

4 Q. Okay.

5 MR. COMBS: Next slide.

6 BY MR. COMBS:

7 Q. And then what?

8 A. Then I did from 11:08 to 11:23 a.m. The device is back
9 in the area utilizing the tower that has a coverage area
10 that includes the brewery.

11 And there was also another call at 11:08 a.m. that
12 lasted 30 seconds from the device associated with
13 Mr. Ashley to the victim's phone that also went to
14 voicemail.

15 Q. Okay.

16 MR. COMBS: Zoom back out if we would.

17 BY MR. COMBS:

18 Q. And this is back at Nine Band Brewery, and Mr. Ashley's
19 residence is over to the right of that slide; is that
20 right?

21 A. Yes, sir.

22 Q. Okay.

23 MR. COMBS: Next slide.

24 BY MR. COMBS:

25 Q. And what are we looking at here?

1 A. 12:11 to 12:13, the device utilizes two different
2 towers that have coverage areas that include his residence.
3 So the device has moved away from the brewery and is now in
4 the area of his residence.

5 Q. Okay.

6 MR. COMBS: And then the next slide.

7 A. And this is 12:41 to 2:45. The phone is back in the
8 area of the brewery. As you can see, it uses the -- at one
9 time it uses the 248 azimuth, so the sector facing to the
10 southwest; and then the rest is on the tower -- that tower
11 literally sits right behind that brewery.

12 There is a back lob off of it; so, you know, that
13 phone for that 12:41 could have been away from the brewery
14 and then moved back but -- not unusual to see that with
15 something so close to a tower. But what I can say is that
16 12:41 to 2:45 p.m., that device is in the area of using
17 towers and sectors that have a coverage area that includes
18 the brewery.

19 Q. Okay.

20 MR. COMBS: And the last slide.

21 A. And then 3:44 p.m. to 9:01 p.m., the phone moves back
22 away from the brewery back in the general area of his
23 residence; and there are also a few more calls to the
24 victim's phone.

25 *

1 BY MR. COMBS:

2 Q. And there are three different towers that are selected
3 there. Is Mr. Ashley's residence within the sector of all
4 of those towers?

5 A. Yes, sir.

6 The 3:45, the one in the north, would probably be
7 the one that probably would -- if it has coverage, it would
8 be very limited; but it's still in that general area of his
9 residence.

10 Q. Uh-huh. Okay.

11 A. And there were two calls -- I just don't know if you
12 can zoom out.

13 Q. Sure.

14 A. At 5:01 and 5:02 there were two more calls from the
15 phone associated with Mr. Ashley to the victim's device, a
16 6-second voicemail and then a 29-second voicemail.

17 Q. Okay. Now, we've been talking a lot about the
18 locations and those being in Plano and Allen and all that;
19 is that right?

20 A. Yes, sir.

21 Q. Is the -- is Plano in the Eastern District of Texas?

22 A. Yes, sir, it is.

23 Q. How about Allen?

24 A. Yes, sir.

25 Q. So the brewery, is that in the Eastern District of

1 Texas?

2 A. The brewery and the victim's residence -- excuse me --
3 the defendant's residence are both in the Eastern District
4 of Texas.

5 Q. And as the phone -- if it traveled down 75 until it got
6 to the George Bush, would that be in the Eastern District?

7 A. Yes, sir.

8 Q. And is the George Bush generally in the Eastern
9 District?

10 A. It's kind of -- that's kind of the dividing line
11 between the Eastern District and the Northern District, in
12 that area.

13 Q. Okay. In that area?

14 A. Yes, sir.

15 Q. So it's the Collin County line, right?

16 A. Yes, sir.

17 Q. If you're in Collin County, you're in the Eastern
18 District; is that right?

19 A. Yes, sir.

20 Q. If you're in Dallas County, you're in the Northern
21 District?

22 A. Yes, sir.

23 Q. Okay. And the victim's home was in the -- was in the
24 Northern District; is that right?

25 A. Yes, sir. The victim's home is in the Northern

1 District, in Dallas County.

2 Q. Okay. But the route of travel that morning was from
3 the Eastern District down to the Northern District?

4 A. Yes, sir.

5 Q. And then back up to the Eastern District after some
6 time down in the vicinity of the victim's home?

7 A. Yes, sir.

8 Q. Okay. Thank you.

9 MR. COMBS: No further questions. Pass the
10 witness.

11 THE COURT: Cross-examination?

12 CROSS-EXAMINATION OF MARK SEDWICK

13 BY MR. SANDEL:

14 Q. Good afternoon, Agent Sedwick. How are you?

15 A. Good, sir.

16 Q. My name is Ryne Sandel, and I represent Keith Ashley.

17 You and I haven't had a chance to talk before
18 today, correct?

19 A. No, sir.

20 Q. Okay. Just have a couple of questions for you. The
21 first relates to kind of how cell towers work.

22 A. Okay, sir.

23 Q. Now, you said on your direct that as populations
24 increase, they need to build more cell towers, right?

25 A. They'll either have to put up a whole new structure,

1 they can add more antennas onto an existing structure, but
2 the engineers will do something to make sure the coverage
3 area -- the usage is good so there is not dropped calls so
4 their customers are happy.

5 Q. And is that due to the fact that each cell tower or
6 each cell antenna has a limited number of traffic that it
7 can handle at any one given time?

8 A. Yes, sir.

9 A cell tower does have a capacity, but the network
10 is designed -- the engineers design it so a tower in its
11 normal course of life, business -- you know, the normal
12 flow is no more than about 50 percent of its max capacity,
13 for the normal course of business.

14 Q. Okay. So if I understand right, the towers are
15 designed that at any given time they are only going to be
16 running at about 50 percent capacity, correct?

17 A. No, sir, that the average traffic across that tower is
18 about 50 percent of its capacity.

19 Q. Understood.

20 So if it looks like one tower is routinely getting
21 above 50 percent of its capacity, that's how AT&T knows,
22 hey, we may need another tower that can cover that area?

23 A. Possibly or a new set of antennas. The engineers are
24 paid a lot of money to -- that's their job.

25 Q. Okay. And I think the other part of your direct

1 testimony that I recall is when a cell device sees that a
2 call is coming in, right, I think you said it will page all
3 of the towers in the area to determine which tower to use
4 to service that call.

5 Is that correct?

6 A. No, sir. The towers are sending out the page.

7 Q. Okay.

8 A. So the towers send out that page. The phone will
9 reply, on the control channel that it is camped on, the
10 tower it sees the best at that moment in time.

11 Q. And you said that generally the tower that a cell
12 device will connect to might be the closest tower. But
13 that's not always the case, correct?

14 A. No, sir.

15 Q. Okay. So if we use -- just kind of by way of an
16 illustration, if we use this room -- which is roughly a
17 rectangle, correct?

18 A. Yes, sir.

19 Q. If there were a cell tower in each one of the corners,
20 okay? You follow me so far?

21 A. Yes, sir.

22 Q. And if I'm standing directly in the middle so I'm
23 equidistant from every cell tower, what are some of the
24 variables that would come into play that would determine
25 which tower services my call?

1 A. In that situation it could be where the phone is. You
2 know, if the phone is slightly closer to that one, that
3 would have an effect.

4 You know, terrain can have an effect if there's --
5 obviously in this area we don't have a ton of terrain; so
6 it's a minimal effect, if any, in this area. But you get
7 to more mountainous regions, you can have where, you know,
8 there is a building, there is a mountain, and there is a
9 hill that the signal has to go around, so there could be a
10 dead spot on the other side.

11 So that tower is technically closest, but the way
12 I do it is -- the analogy I use, if I'm here and I see a
13 tower direct line of sight that's half a mile away and
14 there is one that's, you know, just under half a mile away
15 but there is a structure in between me or a hill, by the
16 line of sight I'll probably choose that farther tower
17 because that would be a cleaner, stronger signal.

18 Q. Okay. So there is a couple different variables that
19 will determine which tower a cell phone connects to,
20 correct?

21 A. Yes, sir.

22 Q. Is traffic another one of those determining
23 characteristics?

24 If Cell Phone Tower 1 is close to that capacity
25 number, will it automatically push me to Cell Phone

1 Tower 2?

2 A. No, sir.

3 The phone is listening and going on over the
4 control channel. That channel -- the phone has no idea how
5 busy the tower is. So the analogy I like to use is if
6 I'm -- you know, I'm a student. I'm in Classroom A.
7 That's my tower. I raise my hand to ask a question, I have
8 to wait my turn. I can't go to Classroom B and ask that
9 question.

10 So, you know, if a tower is too busy, that call
11 will fail. And I think everyone's kind of experienced that
12 at least once in their life. You make a call. It fails.
13 You hit "send" again, and it goes through. You just -- you
14 were just out of line in, you know, getting shuttled to the
15 tower. But the phone is in charge at the beginning of that
16 call, so it can't jump to another tower.

17 Q. So in terms of -- you talked about coverage areas and
18 that sort of thing in your direct. Correct me if I'm
19 wrong. I believe what you said was the amount of distance
20 that a specific tower can cover really varies quite a great
21 deal, correct?

22 A. It varies depending on where you are on the planet.
23 The more closer towers are built, by just the way the
24 network works, they will have smaller coverage areas.

25 Q. So if you're in a densely populated area or a city-type

1 area, like you said downtown, you get smaller coverage
2 areas; and then as you leave kind of that city, the
3 coverage areas expand a little bit as you get out. Is that
4 right? Is that fair to say?

5 A. Yes, sir.

6 Q. Okay. And so an individual cell phone tower, in terms
7 of distance, I mean, it's not unreasonable for that
8 distance to be 3 miles away from that tower; or is it
9 always going to be bigger or always going to be smaller?

10 A. In this area the majority of the towers -- I mean, in
11 this area where I looked at, the majority of towers
12 probably had a coverage area from three-quarters of a mile
13 to a mile and a half. That's general broad of the area
14 that this phone traversed during this time frame.

15 Q. So most of these towers cover just under or just over
16 about 1 mile away, and that's -- when we say 1 mile, we
17 mean as the crow flies. Straight line of sight, 1 mile
18 away, that's about the distance that that tower will cover,
19 correct?

20 A. Roughly, sir, yes.

21 Q. Okay. And then in your PowerPoint presentation, you
22 had that circle that kind of showed the sector, right, the
23 sector that a certain tower will cover?

24 A. Yes, sir. We referred to a piece of pie or whatever
25 you want to call it, yes, sir.

1 Q. And that sector that an individual tower will cover,
2 that's roughly -- what did you say? About 120 degrees?

3 A. We used 120 degrees; but it's slightly larger because,
4 as I stated, there's overlap between towers. There's
5 actually overlap between sectors on a tower also.

6 Q. Okay.

7 A. So it's roughly 130, but we display it as 120.

8 Q. Okay. Which that roughly equates to about a third of a
9 center, right?

10 A. Yes, sir.

11 Q. Okay. So when we're looking at, you know, how much
12 coverage area a specific tower has -- how good are you at
13 geometry?

14 A. I can -- I've done this before, sir; so if you don't
15 mind I'll do it real quick.

16 Pi r squared is the area so -- pi is 3.14. If
17 you'll let me round that to 3 to make my math easier.

18 Q. Sure.

19 A. If I have a tower that's a mile, I'm using one third of
20 that tower; so it's basically 1 squared. So roughly a
21 sector of a mile-radius tower will cover roughly a square
22 mile.

23 Q. So you've got about a 1-square-mile kind of margin for
24 error, I'll say, where you can't pinpoint within where that
25 1 square mile the phone is. You just know it's kind of

1 somewhere in there, correct?

2 A. Yes, sir. As I stated, I can only say the device was
3 in the coverage area of that particular tower and sector.

4 Q. Right. So when we were talking about George Bush --
5 and I think that Mr. Combs was saying that's kind of a
6 dividing line of sorts, right?

7 A. Yes, sir.

8 Q. Whether it was on the north side of George Bush, the
9 south side of George Bush, or dead smack in the middle of
10 George Bush, we don't know. We just know it was kind of
11 somewhere in that vicinity.

12 A. Yes, sir.

13 When it's traversing east-west along the George
14 Bush, I can't say if -- you know, a lot of those towers are
15 right on or just north or just south; so we'll have
16 coverage areas on both sides of the George Bush.

17 Q. And in terms of, you know, your PowerPoint, we kind of
18 saw that as sometimes the towers would bounce back and
19 forth that are inconsistent with somebody traveling in a
20 straight line. But that more has to do with at any given
21 point either Tower 1 or Tower 2 can be giving a stronger
22 signal, right?

23 A. Yes, sir. As he's traveling south initially -- excuse
24 me -- the device is traveling south initially, there is one
25 point where it jumps to a tower north and then jumps back

1 down; and that could be, you know, a slight terrain feature
2 or something. But then, you know, I think it was almost
3 10 seconds later it's back on that other tower.

4 But when you do all of it together, it's
5 consistent with that device traveling south and then west
6 towards the crime scene from the brewery.

7 Q. Now, the crime scene, that's located in the Northern
8 District of Texas, correct?

9 A. Yes, sir.

10 Q. Okay. All right. Agent Sedwick, I greatly appreciate
11 it.

12 MR. SANDEL: I'll pass the witness, your Honor.

13 THE COURT: Anything additional?

14 MR. COMBS: No, your Honor.

15 THE COURT: Can this witness be fully excused?

16 MR. COMBS: Yes, please, your Honor.

17 MR. WHALEN: Yes, your Honor.

18 THE COURT: You are free to leave. Thank you.

19 THE WITNESS: Thank you, your Honor.

20 THE COURT: Okay. What's next?

21 MS. RATTAN: The United States calls Special Agent
22 Brent Gresham.

23 THE COURT: Okay. If you'll raise your right hand
24 and be sworn in.

25 (The oath is administered to the witness.)

1 THE COURT: Go ahead and proceed.

2 MS. RATTAN: Thank you.

3 DIRECT EXAMINATION OF BRENT WAYNE GRESHAM

4 CALLED ON BEHALF OF THE GOVERNMENT

5 BY MS. RATTAN:

6 Q. Please state your name and, if you would, spell your
7 name.

8 A. My name is Brent Wayne Gresham. My last name is
9 spelled G-R-E-S-H-A-M.

10 Q. And where do you work?

11 A. I'm employed by the Bureau of Alcohol, Tobacco,
12 Firearms & Explosives.

13 Q. And what do you do with ATF?

14 A. I investigate violations of federal firearms laws.

15 Q. Are you a special agent?

16 A. Yes, I am.

17 Q. Can you tell us what your background and training is
18 that qualify you to be a special agent with ATF?

19 A. Well, prior to coming to ATF, I spent four and a half
20 years in the United States Army as an infantry personnel.

21 I've got a bachelor's degree in criminology and
22 criminal justice from UTA.

23 After coming out of the military, I joined ATF.

24 I've been with ATF for over 21 years. A part of my
25 training was down at the FLETC for CITP and NPT and

1 additionally, going to Redstone Arsenal, I've been through
2 ATF's firearms interstate nexus school.

3 Q. And in this case were you asked to evaluate a firearm
4 in support of an investigation that the Carrollton Police
5 Department and the FBI were doing?

6 A. Yes, I was.

7 Q. And what were you asked to do? How were you involved?

8 A. I was asked to take a look at that firearm and
9 determine whether that firearm traveled in interstate
10 and/or foreign commerce.

11 MS. RATTAN: And may I approach the witness, your
12 Honor?

13 THE COURT: Yes.

14 BY MS. RATTAN:

15 Q. Let me show you Government's Exhibit 81 and ask you --

16 MS. RATTAN: May I return?

17 THE COURT: Yes.

18 BY MS. RATTAN:

19 Q. -- if you're familiar with that, Government's
20 Exhibit 81.

21 A. Yes, I am.

22 Q. And, in fact, did you evaluate that firearm and conduct
23 an analysis of it to determine whether it had, in fact,
24 traveled in interstate commerce?

25 A. I did.

1 Q. And can you describe for the jury what you did to
2 evaluate that firearm?

3 A. So in looking at this firearm right here, I was able to
4 observe the manufacturer of it, the serial number. I was
5 also able to look at the importer and the importer's city
6 and state; and I was also able to look at the firearm and
7 know that it was made in Turkey.

8 Q. And how was it that you were able to conclude that it
9 had traveled in interstate commerce and that it was made in
10 Turkey? How did you know that?

11 A. So not only is it on the firearm but having done this
12 for as many years, I'm intimately familiar with a Stoeger,
13 number one. Because it was manufactured in Turkey, it also
14 has to be brought into this country legally through an
15 importer, which is in Accokeek, Maryland.

16 So this firearm, in order to be brought into the
17 United States, would have to come through an importer.
18 Subsequently from coming in through an importer, in order
19 for it to be here in Texas, it would have had to have
20 traveled in interstate and/or foreign commerce.

21 Q. And so this firearm, in fact, hasn't just traveled
22 interstate commerce; it's also traveled in foreign
23 commerce?

24 A. That is absolutely correct.

25 Q. Now, did ATF also do a tracing of this firearm?

1 A. They did.

2 Q. And let me --

3 MS. RATTAN: May I approach? Let me move that box
4 out of -- it's kind of covering your --

5 BY MS. RATTAN:

6 Q. So not only did you evaluate this firearm, Government's
7 Exhibit 81, to see if it traveled in interstate and foreign
8 commerce, you also did a tracing of the firearm.

9 Will you explain to the jury what a firearm
10 tracing is?

11 A. So firearms tracing is from the manufacturer, in this
12 case Stoeger. It -- tracing actually starts from the
13 manufacturer and then it traces basically the lineage of
14 where that firearm goes to, ultimately ending up in its
15 sale at an FFL to a first-line purchaser.

16 (Interruption, off the record briefly.)

17 MS. RATTAN: May I proceed, your Honor?

18 THE COURT: Yes, you may.

19 BY MS. RATTAN:

20 Q. So back to the tracing of the firearm which is
21 Government's Exhibit 81, did ATF do a tracing of this
22 firearm?

23 A. Yes.

24 Q. And will you describe for the jury what the conclusions
25 were? What was determined?

1 A. In that trace right there, it was determined that that
2 firearm was manufactured and came originally from Turkey.

3 Q. And then what about the last sale or the last known
4 sale of the firearm?

5 A. Can I look at -- what exhibit was it again? Sorry.

6 Q. I think it's Government's Exhibit 83.

7 MS. RATTAN: May I approach the witness, your
8 Honor?

9 THE COURT: Yes, you may.

10 MS. RATTAN: May I return?

11 THE COURT: Yes.

12 BY MS. RATTAN:

13 Q. And can you describe what Government's Exhibit 83 is?

14 A. It's the Firearms Trace Summary.

15 Q. And what is a firearm tracing report?

16 A. It is a trace summary identifying where this gun was
17 manufactured; and then it does provide its lineage, as I
18 said, and tracks where that gun went to, ultimately ending
19 up at an FFL and its sale to a first-line purchaser.

20 Q. And when you say "ending up at an FFL," what is an FFL?

21 A. It's a federal firearms licensee.

22 Q. So it's trying to trace the firearm to its last known
23 location?

24 A. It's tracing the firearm to the first-line purchaser.

25 Now, there is -- on the secondary market there

1 could be a secondary trace.

2 Q. So did you conduct every trace that was possible or
3 available with ATF on this firearm?

4 A. With this firearm here, possible, yes. This is -- yes.

5 Q. And what do you mean by "possible"?

6 A. Well, there's -- so in this case right here you can
7 have a -- a firearms trace on the very beginning would
8 trace to a first-line purchaser, like the very first person
9 who ever purchased that firearm.

10 Now, that gun could be sold, for example, to a
11 pawnshop and then another person come in and purchase that.
12 They would also purchase that on a 4473, which would also
13 create the secondary trace.

14 Q. So ATF traces firearms where the transfer is required
15 to be documented; is that right?

16 A. Yes.

17 Q. Now, can you run a person? Like could you run me and
18 determine whether I've ever purchased any firearms?

19 A. I could not do that just running your name like that.
20 I could only get that if it was a multiple sale. But I
21 couldn't do that on just an individual firearms
22 transaction, no, ma'am.

23 Q. So ATF can't track people, but ATF can track a firearm
24 and transactions that are required to be reported that
25 relate to that firearm?

1 A. Yes.

2 Q. Okay.

3 MS. RATTAN: We'll offer Government's Exhibit 83.

4 MR. WHALEN: No objection, your Honor.

5 THE COURT: 83 will be admitted.

6 MS. RATTAN: And may we publish it?

7 THE COURT: Yes, you may.

8 BY MS. RATTAN:

9 Q. And can you describe what this is for the jury?

10 A. That right there is the response to certification
11 request for ATF to produce the trace.

12 MS. RATTAN: And if we can look at the next page.

13 BY MS. RATTAN:

14 Q. That's -- what is this?

15 A. That is the seal of it.

16 MS. RATTAN: And if we can look at page 3 of
17 Government's Exhibit 83.

18 BY MS. RATTAN:

19 Q. Certification?

20 A. That's the certification from the individual from ATF
21 certifying that record.

22 MS. RATTAN: And page 4.

23 BY MS. RATTAN:

24 Q. Okay. And is this the certification of the firearm,
25 the tracing?

1 A. That is the Firearms Trace Summary, yes.

2 MS. RATTAN: And if we can blow up the top half of
3 it.

4 BY MS. RATTAN:

5 Q. Can you explain what this is?

6 A. So what you see right there at the Firearms Trace
7 Summary, right underneath that, that is the trace number
8 that is assigned to it and the request date to the right of
9 that of when it came in.

10 Just below the trace number is who at Carrollton
11 Police Department requested the trace and/or put the trace
12 in themselves through the eTrace system, along with their
13 badge number and investigation number.

14 Q. Okay.

15 A. Over to the right under -- on the firearm information,
16 that is the information for the actual firearm itself.

17 Q. And this firearm is Government's Exhibit 81 that you
18 testified had transferred in interstate and foreign
19 commerce?

20 A. That is correct.

21 MS. RATTAN: And if we can look at the bottom half
22 of this document.

23 And here if we can go to the middle portion.

24 BY MS. RATTAN:

25 Q. Okay. So what are we seeing here?

1 A. So on the left side there at the purchaser information,
2 it has the purchase date of 11-7 of 2013. Gregory Robert
3 Frame at that listed address with those identifiers, that
4 is the first-line purchaser there.

5 Q. So when you say "first-line purchaser," explain what
6 you mean.

7 A. So -- so in this case right here --

8 THE WITNESS: Go to the bottom on the summary
9 result right here. This might have been my secondary trace
10 here. Let me see it.

11 A. Yeah, so this one came up from multiple sales. So
12 Gregory Robert Frame there, that is your first-line
13 purchaser for the firearm.

14 BY MS. RATTAN:

15 Q. And when was this?

16 A. That purchase date was on 11-7 of 2013.

17 Q. So 11-7 of 2013 it's documented that this person,
18 Gregory Robert Frame, at that address on Warwick Court in
19 Wylie, Texas, purchased that firearm?

20 A. That's correct.

21 Q. And then we've got recovery information over here on
22 the right. So that would be the date that the firearm was
23 again contacted; is that right?

24 A. That is the recovery date of the firearm.

25 Q. And what do you mean by "recovery date"?

1 A. That's when it came into law enforcement hands, for
2 whatever reason.

3 Q. And then we have dealer information included here.

4 What is that?

5 A. So that is going to be the FFL, the federal firearms
6 licensee number over on the far right; but this is the
7 federal firearms licensee that conducted this transaction.

8 Q. So where was the last documented -- the last paperwork
9 that ATF has on this firearm?

10 Where was this firearm last known to be, according
11 to ATF, before the date it was recovered on February 19th
12 of 2020?

13 A. The first place it would have been would have been at
14 Texas Dollar Pawn and then purchased by Gregory Robert
15 Frame.

16 Q. So it goes --

17 A. And they're both in Wylie, Texas.

18 Q. Okay. So it goes from Texas Dollar Pawn, and then it
19 goes to Gregory Robert Frame in Wylie, Texas; is that
20 right?

21 A. Correct.

22 Q. Now, the defendant in this case is Keith Todd Ashley.
23 Were you provided an address -- a home address associated
24 with Keith Todd Ashley?

25 A. I was.

1 Q. And did you determine what the distance is between the
2 last known documented location of this firearm and Keith
3 Todd Ashley's known residence?

4 A. Yes.

5 Q. And approximately how far is it from the last known
6 documented possession of this firearm, Government's
7 Exhibit 81, and the defendant, Keith Todd Ashley's
8 residence?

9 A. It's approximately 5 miles.

10 MS. RATTAN: May I approach the witness, your
11 Honor?

12 THE COURT: Yes.

13 BY MS. RATTAN:

14 Q. So ATF has, as the last documented transfer of the
15 firearm, November 7th of 2013; is that right?

16 A. Yes.

17 Q. And the last documented transfer is approximately
18 within 5 miles of Keith Ashley's house?

19 A. Correct.

20 Q. Now, that's in 2013. So in order to know after that
21 exactly what happened to the firearm, Mr. --

22 MS. RATTAN: If we can put that back on the
23 screen. Sorry. It's Government's Exhibit 83. I think it
24 was page 4.

25 *

1 BY MS. RATTAN:

2 Q. To know what happened to the firearm after that,
3 someone would have to investigate and contact Mr. Robert
4 Frame, is that right, Gregory Robert Frame?

5 A. Yes.

6 Q. And find out from him what he did with the firearm?

7 A. Yes.

8 Q. But what we know from the paperwork is it's within
9 5 miles, approximately, of the defendant's house; is that
10 right?

11 A. Yes.

12 Q. Now let me direct your attention to Government's
13 Exhibit 84 and ask you if that's a map that you're familiar
14 with.

15 A. Yes.

16 MS. RATTAN: Your Honor, we'll offer
17 Government's 84.

18 MR. WHALEN: No objection.

19 THE COURT: 84 will be admitted.

20 MS. RATTAN: May we publish it?

21 THE COURT: Yes, you may.

22 BY MS. RATTAN:

23 Q. And, in fact, this is just an illustration of what we
24 have just been talking about in terms of the firearm; is
25 that right?

1 A. That's correct.

2 Q. And that's the distance between the defendant's house
3 and the last documented location of Government's
4 Exhibit 81?

5 A. Correct.

6 Q. Now, also in this case were you asked to look at a
7 firearm case that was seized from the defendant, Keith
8 Ashley's house and give an opinion about whether the
9 firearm, Government's Exhibit 81, that was found or
10 recovered at the victim's house -- whether the firearm
11 would fit into or could be used with that empty case that
12 was ultimately found at Keith Ashley's house?

13 A. Yes.

14 Q. And can you describe for the jury whether that empty
15 case that was found at the defendant's house was capable of
16 housing the firearm that was found at James Seegan's house?

17 A. That particular case would house this firearm
18 particularly, yes.

19 Q. Now, it wasn't a distinctive case that brand-matched
20 the firearm; is that right?

21 A. Yeah. The case was not necessarily a Stoeger case. If
22 I recall it when I looked at it, it's a Doskocil case.
23 It's not a Stoeger-branded case.

24 Q. Now let me ask you not just about a case for a firearm
25 but about casings, shell casings, a shell casing in

1 particular.

2 Did you go to the Carrollton Police Department and
3 not just evaluate the firearm, but did you also evaluate a
4 shell casing?

5 A. I -- yes, many shell casings -- or many rounds of
6 9-millimeter and a shell casing, yes.

7 Q. And did you compare that to a shell casing that was
8 found at the victim's house in Carrollton, Texas, James
9 Seegan's house in Carrollton, Texas?

10 A. Yes.

11 Q. And will you describe what you were able to determine
12 when you compared the ammunition that was found at the
13 defendant's house to the shell casing that was at the
14 victim's house?

15 A. They are the same caliber.

16 MS. RATTAN: May I have just a minute, your Honor?

17 THE COURT: Yes.

18 MS. RATTAN: May I have just a minute?

19 THE COURT: Yes.

20 MS. RATTAN: May I approach the witness?

21 THE COURT: Yes, you may.

22 BY MS. RATTAN:

23 Q. We talked about a case that you evaluated. Let me show
24 you this -- it's Government's Exhibit 111 -- and ask you if
25 this is the case that you used to determine whether it

1 could house Government's Exhibit 81, the firearm.

2 So this is Government's Exhibit 111. I'll show
3 you that and ask you if that's the case that you evaluated
4 that was found empty at the defendant's house.

5 A. It is the case.

6 Q. And then you looked at Government's Exhibit 81, which
7 is the firearm; and you assessed whether that case could
8 house that firearm?

9 A. Correct.

10 Q. And you concluded?

11 A. It could fit in this case.

12 MS. RATTAN: May I return, your Honor?

13 THE COURT: Yes.

14 MS. RATTAN: I'll pass the witness.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION OF BRENT WAYNE GRESHAM

17 BY MR. WHALEN:

18 Q. Agent Gresham, how are you?

19 A. Good.

20 Q. Good afternoon. Good to see you.

21 MR. WHALEN: Where is the case? Where'd that go?

22 MS. RATTAN: And, your Honor, we'll go ahead and
23 offer Government's Exhibit 111.

24 THE COURT: Any objection?

25 MR. WHALEN: No objection.

1 THE COURT: Okay. 111 will be admitted.

2 BY MR. WHALEN:

3 Q. You just talked about this case, correct?

4 A. Yes.

5 Q. Okay. And is that -- is that case similar? That would
6 fit a 9-millimeter, correct?

7 A. Yes.

8 Q. Okay. Would it fit a .38?

9 A. .38-caliber?

10 Q. Caliber.

11 A. Yeah.

12 Q. Yeah. And could it fit a .45, depending on size?

13 A. Sure.

14 Q. Okay. This case could fit multiple firearms, correct?

15 A. Absolutely.

16 Q. Okay. So just the fact that a 9-millimeter may fit in
17 there doesn't mean it couldn't have been used for other
18 cases, correct -- other firearms?

19 A. That's correct. Other firearms could fit in there,
20 yes.

21 Q. Okay. And is that case -- it doesn't say "Glock" on
22 it. But Glock cases are pretty distinctive in that they
23 have the eggshell foam in their cases, correct?

24 A. Yes. A lot of manufacturer cases have the eggshell --

25 Q. Okay.

1 A. -- yes.

2 Q. So -- but that's -- but just saying it could fit in
3 there doesn't mean that's the only type of firearm that
4 could fit in that case, correct?

5 A. Correct.

6 Q. Okay. And then also you talked about ammunition,
7 saying it was the same caliber. Did you check to see if it
8 was the same brand?

9 A. I did.

10 Q. And are they the same brand?

11 A. Not all of them are the same brand, no.

12 Q. Okay. So what was found in the Stoeger was Winchester,
13 correct?

14 A. I would have to look at those again, but I believe that
15 is correct.

16 Q. Okay. And the brand that was found in the house was
17 different, correct?

18 A. Yes. There were -- to my knowledge, there was three
19 different brands there total, yes.

20 Q. Okay. But none of them were Winchester, correct?

21 A. No, there were Winchester rounds there, yes.

22 Q. Okay. But it was the same -- okay. What were the
23 other two brands that you found?

24 A. There was FC, which is Federal Corporation.

25 Q. Okay.

1 A. And then there was RP-headstamped ammunition, which
2 stands for Remington-Peters.

3 Q. Okay. Now, when we talk about tracing and -- well, let
4 me ask you this: How many guns are sold in just the
5 Eastern District of Texas on a yearly basis?

6 A. I would have no earthly idea.

7 Q. I mean, are we talking hundreds? We talking thousands?

8 A. Thousands.

9 Q. Okay. Thousands?

10 A. Yes.

11 Q. Okay. And then did you trace whether or not -- it gets
12 imported to the importer in Maryland, correct?

13 A. Yes.

14 Q. Okay. Do you have any -- is there any documentation
15 between the sale from the importer to the pawnshop in
16 Wylie?

17 A. Are you asking from -- going from the importer going
18 anywhere else, like to the wholesaler?

19 Q. Correct.

20 A. Yeah, I'm sure there is. I don't know that it was in
21 that trace. I could look at it if you want me to do that.

22 Q. Okay. Well, were you asked to do that, though, to look
23 at the -- trace it all the way to the pawnshop?

24 A. No. When we did the trace, ultimately when it came
25 back, I saw that it actually ultimately ended up at that

1 pawnshop.

2 Q. Okay. And so it looked at the bottom, too, that it was
3 part of a multiple firearms sale, correct?

4 A. Yes. If I read that correctly, it's part of a multiple
5 sale, yes.

6 Q. Okay. So Mr. Frame -- from reading that, Mr. Frame
7 bought multiple firearms, correct?

8 A. That's correct.

9 Q. Okay. And then did you look to see -- at the secondary
10 paperwork for the multiple firearms sale?

11 A. No. I did not look at the other firearms, no.

12 Q. Okay. Is it true that when somebody does a multiple
13 firearms sale, there is additional paperwork that gets
14 filled out for that?

15 A. Yes. From the FFL he must fill out paperwork within
16 five business days documenting the multiple sale of those
17 firearms, yes.

18 Q. Okay. And did you review those documents?

19 A. I did not review the multiple sale documents.

20 Q. Okay. So then when I purchase a firearm, if I'm the
21 first-time purchaser, first-line purchaser, I fill out the
22 form, correct?

23 A. You'd fill out an ATF 4473, yes.

24 Q. Okay. And then they do the background check, correct?

25 A. Correct.

1 Q. And then if that comes back clear, then the FFL hands
2 me the firearm?

3 A. If it comes back proceed, that transaction will happen
4 right then and there, yes.

5 Q. Okay. Or if I have a license to carry?

6 A. Then you would not be subject to the NICS and Brady
7 check. That transaction would happen without that check
8 happening.

9 Q. Okay. So -- and then all ATF does is maintain
10 that's -- that's the only record you keep is the first-time
11 purchaser, correct?

12 A. As far as tracing, that's what -- that's what 4473s do
13 is document first-line purchasers.

14 Q. Okay. So then as a private owner of firearms, I can
15 sell my firearm to a private citizen; and I don't have to
16 document that with ATF, correct?

17 A. On a private sale, no, you do not.

18 Q. Okay. However, can I do a private sale or a private
19 transfer through an FFL to document it?

20 A. Yes, you can do those.

21 Q. Okay. So if I wanted to document the sale, I could go
22 to an FFL, use them as an intermediary; and they would run
23 a background check on the person that I'm selling it to,
24 correct?

25 A. Yes.

1 Q. Okay. And if somebody did that, then there would be a
2 record of it, correct?

3 A. Yes. If you go into an FFL and do it that way on a
4 4473, there would be a record, yes.

5 Q. Okay. If I used a website and posted my firearm on a
6 website, like Texas Gun Trader or something like that,
7 would that still be a private sale?

8 A. Yes.

9 Q. Okay. So does the website have any duty to maintain
10 records of that sale, or does it just allow me to post my
11 firearm on that website?

12 A. Some of them may require you to go through an FFL like
13 when they ship it and do a transfer, but I'm sure there are
14 other websites out there that do not do that at all.

15 Q. Okay. And so just because Mr. Frame bought it in
16 Wylie, Texas, doesn't mean he transferred those guns to
17 somebody else in Wylie, Texas, does it?

18 A. State that again.

19 Q. Okay. Just because Mr. Frame lived in Wylie at the
20 time he purchased it -- just because he purchased it in
21 Wylie doesn't mean he transferred it to somebody in Wylie,
22 Texas, correct?

23 A. Oh, no. No.

24 Q. Okay. He could have taken it to a flea market and sold
25 it there?

1 A. Yes.

2 Q. And that happens frequently, does it not?

3 A. Yes.

4 Q. Okay. And there is no way to know from a private sale
5 point of view other than Mr. Frame saying, "I sold it to
6 this person" or "I disposed of the firearms in this way,"
7 correct?

8 A. Yeah. I mean, you'd have to start with Mr. Frame and
9 figure out who he sold it to and then trace that lineage
10 back.

11 Q. Okay.

12 MR. WHALEN: I'll pass the witness.

13 THE COURT: Anything further of this witness?

14 MS. RATTAN: Just one more thing, your Honor.

15 REDIRECT EXAMINATION OF BRENT WAYNE GRESHAM

16 BY MS. RATTAN:

17 Q. Let me ask you, in the notebook in front of you, if you
18 can look at Government's Exhibit 85.

19 And do you recognize that? On your direct
20 testimony you testified that you evaluated the firearm,
21 Government's Exhibit 81, to determine whether it had an
22 interstate nexus; is that right?

23 A. Correct.

24 Q. And did you do a report concluding that it did?

25 A. I did.

1 Q. Is Government's Exhibit 85 your report?

2 A. Yes, ma'am, it is.

3 MS. RATTAN: Your Honor, we'll offer Government's
4 Exhibit 85, the firearm and ammunition interstate nexus
5 determination.

6 MR. WHALEN: No objection, your Honor.

7 THE COURT: 85 will be admitted.

8 MS. RATTAN: And I'll pass the witness.

9 THE COURT: Anything additional?

10 MR. WHALEN: No, nothing further, your Honor.

11 THE COURT: Can this witness be fully excused?

12 MS. RATTAN: Yes, please.

13 MR. WHALEN: Yes, your Honor.

14 THE COURT: Sir, you are free to leave.

15 THE WITNESS: Thank you.

16 THE COURT: What's next?

17 MS. RATTAN: Kris Kort.

18 THE COURT: Ma'am, if you'll raise your right hand
19 to be sworn in.

20 (The oath is administered to the witness.)

21 THE COURT: Go ahead and proceed.

22 DIRECT EXAMINATION OF KRISTINA KORT

23 CALLED ON BEHALF OF THE GOVERNMENT

24 BY MS. RATTAN:

25 Q. Please state your name.

1 A. Kristina Kort.

2 Q. And how do you spell your name?

3 A. K-R-I-S-T-I-N-A K-O-R-T.

4 Q. Ms. Kort, where do you work?

5 A. White Rock Medical Center, formerly City Hospital.

6 Q. City Hospital White Rock?

7 A. Yes, ma'am.

8 Q. Where is that?

9 A. It's located at 9440 Poppy Drive in Dallas.

10 Q. And what do you do there?

11 A. I'm the human resources manager.

12 Q. And, of course, as part of your duties there, you're a
13 custodian of records there at City Hospital?

14 A. Yes, ma'am.

15 Q. And let me direct your attention to Government's
16 Exhibit 14A. Have you reviewed those records before you
17 came into the courtroom this afternoon?

18 A. Yes, ma'am.

19 Q. Okay. And are those records records of City Hospital?

20 A. Yes.

21 Q. Are those records made at or near the time of the event
22 that's being recorded there in the hospital?

23 A. Yes.

24 Q. And are they made by someone who has knowledge of the
25 event that's being recorded?

1 A. Yes, ma'am.

2 MS. RATTAN: Your Honor, we'll offer Government's
3 Exhibit 14A.

4 THE COURT: Any objection to fully admitting this?

5 MR. SANDEL: If I could just have one second, your
6 Honor.

7 MS. RATTAN: And we'll offer 14B as well. 14A and
8 B are both City Hospital records. I think 14A was
9 previously conditionally admitted.

10 THE COURT: It was.

11 MS. RATTAN: And so we'd offer it for all purposes
12 at this point, A and B.

13 (Off-the-record discussion among counsel.)

14 MR. SANDEL: No objection, your Honor.

15 THE COURT: Okay. 14A will be fully admitted, and
16 14B is admitted.

17 BY MS. RATTAN:

18 Q. 14B, if we can focus on 14B.

19 MS. RATTAN: And may we publish that?

20 THE COURT: Yes, you may.

21 BY MS. RATTAN:

22 Q. Okay. Now, this is kind of small and hard to read, but
23 you've reviewed it before testifying; is that right?

24 A. Yes.

25 Q. And it's a record of White Rock hospital there in

1 Dallas, Texas --

2 A. Yes.

3 Q. -- City Hospital at White Rock?

4 A. Yes, ma'am.

5 Q. Now, this says that the source system here is the Pyxis
6 MedStation system. What is the Pyxis MedStation system
7 there in the hospital?

8 A. It's the medication dispensary system that we use.

9 Q. When you say "medication dispensary," what is that?

10 A. It's similar to -- I guess you could call it like a
11 Coke machine. You put in a code, because every person who
12 has access to it has a code; and it will dispense whatever
13 they're looking for.

14 Q. So if somebody is working there in the hospital as a
15 nurse, an ER nurse, and they want to access medication
16 that's controlled there in the machine, the Pyxis machine,
17 they have to enter what? How do they access the
18 medication?

19 A. I'm not exactly sure.

20 Q. Oh, I thought you just said a code --

21 A. Well, I mean, it's -- it's my understanding that each
22 nurse or pharmacist would have a code to that -- specific
23 to that person.

24 Q. Now, this is the Pyxis MedStation system, and it's
25 documented a transaction time here; is that right?

1 A. Yes.

2 Q. And the transaction time is December 17th of 2019?

3 A. Yes.

4 Q. And the system also documents the person who is using
5 the system; is that right?

6 A. Yes.

7 Q. And the record here shows that it's Keith Ashley?

8 A. Yes, ma'am.

9 Q. And then the person accessing the system has a user ID;
10 is that right?

11 A. Yes, ma'am.

12 Q. Now, on this document, Government's Exhibit 14B, we've
13 blacked out the patient's name; but in the actual record --
14 and we've left the initials. But in the actual record it
15 contains the patient's name; is that right?

16 A. Yes, ma'am.

17 Q. And it shows the type of medication, the description of
18 the medication; is that right?

19 A. Yes.

20 Q. And does it say that the medication that's being
21 dispensed on December 17th of 2019 to Keith Ashley there in
22 the hospital is etomidate?

23 A. Yes.

24 Q. E-T-O-M-I-D-A-T-E, etomidate?

25 A. Yes.

1 MS. RATTAN: May I approach the witness, your
2 Honor?

3 THE COURT: Yes, you may.

4 BY MS. RATTAN:

5 Q. Let me show you this. It has the date of December 17th
6 of 2019, Keith Ashley receiving etomidate there at the
7 hospital.

8 A. Yes, ma'am.

9 Q. And that's what your records document?

10 A. Yes.

11 MS. RATTAN: Now if we can look at and publish the
12 next page of that exhibit, page 2.

13 BY MS. RATTAN:

14 Q. Is this a record of daily staffing or Daily Assignment
15 Sheet there in the hospital?

16 A. Yes.

17 Q. And is it for that same date, December 17th of 2019?

18 A. Yes.

19 Q. And does it show that from 7:00 a.m. to 7:00 p.m., an
20 RN in the name Keith was doing a shift there at the
21 hospital?

22 A. Yes.

23 MS. RATTAN: I'll pass the witness, your Honor.

24 THE COURT: Cross-examination?

25 *

1 CROSS-EXAMINATION OF KRISTINA KORT

2 BY MR. SANDEL:

3 Q. Good afternoon, Ms. Kort. How are you?

4 A. Doing well. Thank you. How are you?

5 MR. SANDEL: If we could please put

6 Government's 14B, page 1, back on the screen.

7 And if we could just zoom in. There you go.

8 Thank you so much.

9 BY MR. SANDEL:

10 Q. Ms. Kort, you recall looking at this exhibit on your
11 direct examination, correct?

12 A. Yes.

13 Q. I just wanted to ask you a couple of follow-up
14 questions about this.

15 When you were asked about this entry over here,
16 the med description -- do you see that where I've circled?

17 A. Yes.

18 Q. Does it show what quantity of drug was removed from the
19 Pyxis?

20 A. I don't know how to read that. I'm not a pharmacist.

21 Q. Okay. So do you see here where it says (as read):
22 "20-milliliter vial"?

23 A. Yes.

24 Q. Okay. Now, how familiar are you with the Pyxis system?

25 A. I just know that people are issued an identification

1 number code to get into it.

2 Q. Okay. And with --

3 A. And that it holds medication.

4 Q. And without that identification number, that Pyxis is
5 locked and it's not just anybody can access it, correct?

6 A. Correct.

7 Q. Do you know if that Pyxis is audited every night to
8 make sure that nothing is missing that hasn't been logged?

9 A. I don't know.

10 Q. You wouldn't be the person to ask about that?

11 A. No, sir.

12 Q. Who would be the right person to ask about those types
13 of questions?

14 A. That would be somebody in the pharmacy.

15 Q. Somebody in the pharmacy, okay.

16 A. Either the manager or director of the pharmacy.

17 Q. All right. Thank you, Ms. Kort.

18 MR. SANDEL: Nothing further, your Honor.

19 THE COURT: Anything additional?

20 MS. RATTAN: No, your Honor.

21 THE COURT: Can this witness be fully excused?

22 MS. RATTAN: Yes, please.

23 THE COURT: Well, hearing no objection from
24 defense, go ahead. You may leave, ma'am. Thank you.

25 Okay. What's next? Oh, we'll go ahead and --

1 let's go ahead and take our afternoon break. It's a little
2 after 3:00.

3 Okay. Ladies and gentlemen, again, please don't
4 discuss the case among yourself or anyone else. Don't do
5 any outside research. We'll take 15 minutes, come back,
6 and continue. Thank you.

7 (The jury exits the courtroom, 3:03 p.m.)

8 THE COURT: Anything further from the government?

9 MS. RATTAN: No, your Honor.

10 THE COURT: Defense?

11 MR. SANDEL: No, your Honor.

12 THE COURT: Okay. See you back in 15.

13 (Recess, 3:04 p.m. to 3:20 p.m.)

14 (Open court, defendant present, jury present.)

15 THE COURT: Please be seated.

16 What's next, Ms. Rattan?

17 MS. RATTAN: The United States calls Melanie
18 Flinn-Oviedo.

19 THE COURT: Ma'am, if you will raise your right
20 hand to be sworn in.

21 (The oath is administered to the witness.)

22 DIRECT EXAMINATION OF MELANIE FLINN-OVIEDO

23 CALLED ON BEHALF OF THE GOVERNMENT

24 BY MS. RATTAN:

25 Q. Would you please state your name.

1 A. My name is Melanie Flinn.

2 Q. And can you spell it for us.

3 A. M-E-L-A-N-I-E F, as in "Frank," L-I-N-N.

4 Q. And, Ms. Flinn, where do you work?

5 A. I work at White Rock Medical Center.

6 Q. And is that in Dallas?

7 A. That's in Dallas, Texas.

8 Q. Is it a hospital, essentially?

9 A. Yes, it's a hospital.

10 Q. Can you describe for the jury what you do at the
11 hospital?

12 A. I'm actually the ancillary director, and I am the
13 director of pharmacy.

14 Q. What's an ancillary director?

15 A. I help supervise the ancillary departments, such as the
16 lab, respiratory, physical therapy, and other areas of the
17 hospital.

18 Q. And then your relationship with the pharmacy, your role
19 there in the pharmacy, what is it?

20 A. I'm the director of pharmacy.

21 Q. And when you say "director of pharmacy," what are your
22 responsibilities?

23 A. I oversee the pharmacy operations.

24 Q. How long have you been working at the hospital?

25 A. I have been at the hospital since 2009.

1 Q. Can you describe for the jury what your educational
2 background is that qualifies you as the director of the
3 pharmacy?

4 A. I have a license in pharmacy from the State Board of
5 Texas. I have been in hospital pharmacy for over 30 years.

6 Q. And does the hospital have the Pyxis system?

7 A. Yes, ma'am.

8 Q. And when we say "Pyxis," is that P-Y-X-I-S?

9 A. Yes, ma'am.

10 Q. Pyxis.

11 Can you explain what the Pyxis system is?

12 A. The Pyxis system is an automated dispensing machine.
13 It's a way to secure medications and help us keep an
14 inventory of medications.

15 Q. And how does it work?

16 A. Typically, you get an order from a physician; and you
17 would find the patient in the machine from being admitted
18 to the hospital. If it's an emergent situation, then a
19 staff member is going to put the information in the system.

20 You match the drug with the order, and it allows
21 you to pull out the dose that's prescribed.

22 Q. Is it a sort of a security system?

23 A. It is. It's sort of like an ATM, I would say.

24 Q. An ATM for medication in the hospital?

25 A. Correct.

1 Q. So it makes sure that the medication is secure. Is it
2 also -- does it also have an inventory function?

3 A. It does.

4 Q. So you keep the medication safe, and you know how much
5 you have?

6 A. Yes, ma'am.

7 Q. How does a hospital employee access the medications
8 that are kept secure in the Pyxis system?

9 A. We have a form that's filled out when the staff member
10 comes. And if they are of a certain discipline, then their
11 manager fills out a form for the staff member; and they are
12 entered into the system by pharmacy personnel.

13 Q. And if an employee, a registered nurse, needs to get
14 something out of the Pyxis system, a medication, physically
15 how do they do that?

16 A. They will pull up the patient. They will pull up the
17 order. And if the medication is stored in the Pyxis,
18 they'll choose the medication; and a drawer will pop open.
19 Mostly the drawers do have a secure flap on the top.

20 Q. So the employee would have to enter a unique number
21 that's unique to them?

22 A. Yes.

23 Q. And the system would record that happening?

24 A. Yes, ma'am.

25 Q. Can you describe what the drug etomidate is, not

1 specifically but just globally?

2 A. Etomidate is a short-acting sedative.

3 Q. And so would the hospital keep etomidate in the Pyxis
4 system?

5 A. Yes, ma'am, in certain areas.

6 Q. And what do you mean by "certain areas"?

7 A. In certain areas of the hospital, we keep emergent
8 drugs, being an OR, ER, ICU.

9 Q. So sometimes the etomidate would not be in Pyxis?

10 A. Correct.

11 Q. And that's if it's in a special unit, because there
12 might be an emergency situation?

13 A. Yes, ma'am.

14 Q. Now let me ask you --

15 MS. RATTAN: May I approach the witness, your
16 Honor?

17 THE COURT: Yes.

18 BY MS. RATTAN:

19 Q. There is a notebook on the stand in front of you; and I
20 want to show you Government's Exhibit 14C, which you could
21 probably turn to but just let me -- oh, that's in the other
22 book.

23 MS. RATTAN: May I return, your Honor?

24 THE COURT: Yes, you may.

25 MS. RATTAN: And may we publish Government's

1 Exhibit 14B? I said C a minute ago, but if we can publish
2 14B, rather.

3 THE COURT: Yes, go ahead.

4 BY MS. RATTAN:

5 Q. Okay. Ms. Flinn, this is Government's Exhibit 14B.

6 Can you explain to the jury what this is?

7 A. This is an electronic record that is produced out of
8 our Pyxis system. Our Pyxis system keeps an electronic
9 record of anytime anyone accesses the Pyxis or moves
10 anything from the Pyxis, inventories, anything.

11 Q. And so this is the Pyxis system. It has the date
12 December 17th, 2019. The user name is Keith Ashley. We've
13 redacted or covered the patient's name for their privacy.
14 And then it indicates the drug that was accessed; is that
15 right?

16 A. Yes, ma'am.

17 Q. So Pyxis, December 17th, 2019, Keith Ashley, and the
18 drug is etomidate?

19 A. Yes, ma'am.

20 Q. And let me direct your attention to Government's
21 Exhibit 14C. Do you recognize that as being an example of
22 what etomidate would look like?

23 A. Yes, that is an example.

24 MS. RATTAN: Your Honor, we'll offer Government's
25 Exhibit 14C.

1 MR. SANDEL: No objection, your Honor.

2 THE COURT: Okay. 14C will be admitted.

3 MS. RATTAN: And may we publish it?

4 THE COURT: Yes, you may.

5 BY MS. RATTAN:

6 Q. Okay. Will you describe just what this is?

7 A. This is just a picture of an etomidate vial.

8 Q. And so this is what would be held in the Pyxis machine
9 that an employee with their secure ID or secure number
10 could access?

11 A. This is an example, yes, ma'am.

12 Q. Okay.

13 MS. RATTAN: I'll pass the witness.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION OF MELANIE FLINN-OVIEDO

16 BY MR. SANDEL:

17 Q. Good afternoon, Ms. Oviedo. How are you?

18 A. Good, thank you.

19 Q. And did I pronounce your last name, correctly?

20 A. My actual name is Melanie Flinn. Oviedo is my married
21 name.

22 Q. Okay. And would you prefer I call you --

23 A. My license is in my married (*sic*) name, as Flinn.

24 Q. So would you --

25 A. I mean my -- sorry.

1 Q. Would you prefer I call you "Ms. Flinn"?

2 A. Yes.

3 Q. Okay. Ms. Flinn, how are you?

4 A. Good, thank you.

5 Q. I just had a couple of questions for you following up
6 on what you just spoke with Ms. Rattan about, okay?

7 A. Okay.

8 MR. SANDEL: If we could start by looking at 14B,
9 page 1.

10 Thank you, ma'am.

11 BY MR. SANDEL:

12 Q. All right. Ms. Flinn, you recall looking at this
13 screen, right?

14 A. Yes, sir.

15 Q. Okay. I wanted to ask you some specific questions
16 about this screen. Now, the first thing is I want to draw
17 your attention to these columns over here. Do you see
18 where I've circled?

19 A. Yes, sir.

20 Q. Can we tell by this screen how much of that drug was
21 dispensed to Mr. Ashley?

22 A. Yes, you can.

23 Q. Okay. And how much was dispensed?

24 A. 20 MLs.

25 Q. 20 MLs.

1 MR. SANDEL: And so if we can quickly look at
2 Government's Exhibit 14C.

3 BY MR. SANDEL:

4 Q. And so that would be consistent with this vial that we
5 looked at here, correct?

6 A. Yes, sir.

7 Q. Okay.

8 MR. SANDEL: So going back to 14B now.

9 BY MR. SANDEL:

10 Q. If Mr. Ashley had wanted multiple vials of this
11 etomidate, would there be multiple entries; or would it
12 just indicate that over there in the description?

13 A. It would tell us how many that he removed.

14 Q. Okay. So if he removed more than one vial, it would --
15 it would indicate that here?

16 A. Yes, sir.

17 Q. Okay. Now, the other thing I wanted to draw your
18 attention to, we talked about this patient name which has
19 been redacted, correct?

20 When a nurse removes a drug from the Pyxis system,
21 do they always have to link that drug with a specific
22 patient?

23 A. Unless a person comes in as a John Doe, yes, sir.

24 Q. Okay. And why is that important?

25 A. Can you rephrase that?

1 Q. Sure.

2 Why would the Pyxis system be set up to where it
3 has to dispense a drug linked to a specific patient?

4 A. Patient safety.

5 Q. Patient safety.

6 And what do you mean by that?

7 A. Making sure the patient gets the correct drug.

8 Q. And so we want to avoid a situation where if a -- for
9 example, if a patient is allergic to a certain drug, the
10 system would not let a nurse get a drug that that patient
11 was allergic to, correct?

12 A. That's not necessarily the case. It would let the --
13 it would alert the nurse that the patient has an allergy to
14 the drug, yes, sir.

15 Q. Now, before a nurse can retrieve a drug linked to a
16 specific patient, you testified about an order has to be
17 processed. What is that procedure?

18 A. On the normal floor we're gonna -- unless it's in an
19 emergent situation, we're going to have a patient order for
20 the drug.

21 In the emergency room you may not necessarily have
22 an order for a drug if it's an emergent situation. There
23 are some drugs that are on override.

24 Q. Okay. So there are certain drugs that you don't need
25 an order for; but the typical way is a doctor has to order

1 a specific drug for a specific patient, correct?

2 A. Correct.

3 Q. And then the pharmacy department inputs that order into
4 the Pyxis system?

5 A. No, sir.

6 Q. Talk me through that.

7 A. The physician will enter the order.

8 Q. The physician enters the order into the Pyxis system,
9 correct?

10 A. Into the electronic medical record.

11 Q. Okay.

12 A. There are actually no orders entered into a Pyxis
13 system.

14 Q. Okay. So how does Pyxis communicate with the
15 electronic system to know when a specific drug has been
16 ordered for a specific patient?

17 A. Via interface.

18 Q. Okay. So those two systems talk to one another?

19 A. Yes, sir.

20 Q. Okay. But in any event, typically what happens is a
21 physician will order this drug for this patient; and then
22 through some communication, Pyxis then knows that if a
23 nurse comes and tries to dispense that product, there has
24 been a physician order for that, correct?

25 A. Typically, yes, sir.

1 Q. Now, can we tell, from looking at this screen, if it
2 was a situation like that or if it was a situation where
3 this was what you called an override? Can we tell from
4 this screen?

5 A. No, you cannot.

6 Q. Okay. Now, the other thing that I recall you saying on
7 direct examination is sometimes drugs like etomidate aren't
8 located in the Pyxis system.

9 Do you recall testifying to that?

10 A. Yes, sir.

11 Q. Okay. And I think you said that's when they're in a
12 special unit?

13 A. Not in a special unit but in a box, a lockbox located
14 in the Pyxis. So not in a special unit.

15 Q. Okay. So you said --

16 A. So if a nurse was to get a box with a drug in it, they
17 would have to log in to the Pyxis and pull the box out of
18 the Pyxis. So there would be an electronic record of that.

19 Q. Okay. So tell me if I'm summarizing this right. What
20 you're saying is that sometimes you can log into the Pyxis
21 and get just a box that has various medications in it and
22 one of those medications is etomidate?

23 A. There is a box, an RSI box -- there was. There is not
24 anymore.

25 Q. Okay.

1 A. But I think you'll find in normal standing operating
2 procedures, there is a rapid sequence intubation box in
3 most facilities; and there are two drugs located in that
4 box, one being etomidate.

5 Q. Okay.

6 A. To get that box out of the Pyxis, you will need to
7 enter your credentials and a patient name to get that box.

8 Q. Got it.

9 Okay. So we would still see a Pyxis entry. It
10 just may not say etomidate specifically; it would say that
11 they got the RSI box out of it?

12 A. Correct.

13 Q. Okay. That makes sense.

14 Now, you said that etomidate and similar drugs are
15 typically used in emergency situations, correct?

16 A. Yes, sir.

17 Q. So -- and we look here; and the station we're in, we're
18 in the ER, correct?

19 A. Yes, sir.

20 Q. Now, the ER at the hospital, is that area accessible to
21 the public?

22 A. No, sir.

23 Q. How would one gain access to the ER?

24 A. Do you want to rephrase that?

25 Q. So if Mr. Ashley was working as an ER nurse, how does

1 he get back to the emergency room? Does he have a key
2 card?

3 A. Currently we have a badge system.

4 Q. A badge system.

5 Do you know what the system was back in December
6 of 2019?

7 A. No, sir, I do not.

8 Q. But is it fair to say there was some security measure
9 that would log who was coming into and out of the ER?

10 Correct?

11 A. Yes, sir.

12 Q. Okay. And so to get to the emergency room, you either
13 have to badge in or punch in a code or something to get
14 back there, correct?

15 A. Correct.

16 Q. And that -- again, for security, that keeps people like
17 me who have no business in an ER from just walking back in
18 an emergency room, fair?

19 A. Yes, sir.

20 Q. And does the hospital have a log so that at any given
21 point you can see who had badged in or out of the emergency
22 room?

23 A. I do not have access to that information.

24 Q. But do you know that that -- if that information is
25 accessible by someone?

1 A. Yes, sir.

2 Q. Okay. Thank you, ma'am.

3 MR. SANDEL: I'll pass the witness, your Honor.

4 THE COURT: Anything further?

5 MS. RATTAN: No, your Honor.

6 THE COURT: Can this witness be fully excused?

7 MS. RATTAN: Yes, please.

8 MR. SANDEL: Yes, your Honor.

9 THE COURT: Ma'am, you are free to leave.

10 What's next?

11 MS. RATTAN: Your Honor, I'd like to offer
12 globally a number of exhibits, with the Court's permission.

13 THE COURT: Okay.

14 MS. RATTAN: And we'll offer the following exhibit
15 numbers: 1, 2, 3, 5, 6, 7A, 7B --

16 8A was previously conditionally admitted. We'd
17 offer 8A for all purposes.

18 -- 9, 10, 11A, 11B, 13, 16, 17, 19, 24, 25, 26,
19 27, 29B, 31, 32, 33A, 33B, 34, 38, 40, 42A, 45B, 53B, 54,
20 86, 87, 95, 98, 99, 100, 103A, 103B, 104, 105, 106, 107,
21 108, 109 --

22 I believe page 1 of 109 was previously admitted.
23 We'll offer that for all purposes at this point.

24 -- 110, 112A, 112B, 113, 114, 118A, 118B, 118C,
25 119A, 119B, 122, 123A -- at this point we will not be

1 offering 123A yet.

2 And I'll skip to 124A, 124B. That's our offer at
3 this point, your Honor -- oh, may I have a moment?

4 THE COURT: Yes.

5 (Off-the-record discussion among counsel for the
6 government.)

7 MR. WHALEN: Your Honor, we have no objection to
8 those.

9 THE COURT: I'll go ahead and admit all those
10 exhibits.

11 MS. RATTAN: Thank you, your Honor.

12 THE COURT: What's next?

13 MR. COMBS: The government calls Sarah Hughes.

14 THE COURT: Okay. If you'll raise your right hand
15 to be sworn in.

16 (The oath is administered to the witness.)

17 THE COURT: Go ahead and proceed.

18 MR. COMBS: Thank you.

19 DIRECT EXAMINATION OF SARAH HUGHES

20 CALLED ON BEHALF OF THE GOVERNMENT

21 BY MR. COMBS:

22 Q. Ma'am, can you please state your name.

23 A. Sarah Hughes.

24 Q. And how do you spell your last name?

25 A. H-U-G-H-E-S.

1 Q. And where are you employed, Ms. Hughes?

2 A. I work at the Southwestern Institute of Forensic
3 Sciences.

4 Q. What are your duties there?

5 A. I'm a toxicologist there.

6 Q. How does one become a toxicologist?

7 A. So my educational background is I have a Bachelor of
8 Science degree in chemistry from The University of Texas at
9 Arlington.

10 I also am licensed with the Texas Forensic Science
11 Commission as a non-interpretive toxicologist.

12 Q. What's a non-interpretive toxicologist?

13 A. So as a non-interpretive toxicologist, I test
14 samples -- biological samples, primarily blood -- for a
15 variety of compounds, drugs, and metabolites.

16 But I can testify to the whole process -- sample
17 preparation, instrumentation, data processing, that sort of
18 thing -- but I cannot tell you anything or testify about
19 the effects that that might have on the body.

20 Q. Okay. And you said that you are with the Southwestern
21 Institute for Forensic Sciences. That's a mouthful. Do
22 people call that by an abbreviation?

23 A. SWIFS, yes.

24 Q. SWIFS, that's what everybody calls it by?

25 A. That's correct.

1 Q. How long have you been at SWIFS?

2 A. I've been employed at SWIFS for a little over eight
3 years now.

4 Q. During that time have you been in the toxicology
5 department the whole time?

6 A. No. I started in the controlled substance laboratory.
7 I was there for approximately a year, and then I
8 transferred down to the toxicology lab.

9 Q. All right. What do you do on a -- on a day-to-day
10 basis? What's your job there at SWIFS?

11 A. So I do bench chemistry to prepare samples for
12 analysis. I spend -- most days I do some sort of
13 extraction in the lab, and then I put them on analytical
14 instruments and process the data.

15 Q. And do you -- what type of substance do you test -- or
16 what type of substances do you test?

17 A. We test for a lot of different things, both controlled
18 substances and pharmaceutical drugs, even just other
19 compounds, metabolites, too. We detect and report.

20 Q. Now, are you testing a -- you know, blood, urine; or
21 are you testing the substances themselves to see if they
22 are, you know, cocaine or methamphetamine or whatever?

23 A. So I test the biological samples. It's primarily blood
24 that we test. However, sometimes we also test urine,
25 vitreous fluid, even muscle homogenates if there is no

1 blood available.

2 Q. Okay. And over the course of your career, how many
3 vials of blood have you tested?

4 A. That's a very hard number to estimate. A typical batch
5 that I run might have one or two dozen samples; and I run
6 probably four or five batches a week, so quite a few.

7 Thousands.

8 Q. Quite a few, okay.

9 And have you ever testified before?

10 A. Yes.

11 Q. How many times?

12 A. I've only testified once before.

13 Q. Okay. And was that in state court?

14 A. Yes.

15 Q. Okay. Where was that?

16 A. Dallas, Texas.

17 Q. All right. And can you tell -- you talked about
18 testing blood, primarily blood. When you're asked to test
19 a sample of blood, how do you know what you're going to
20 test it for?

21 A. So we have a laboratory information management system,
22 a computer software program we call LIMS. And I look in
23 that software at our testing queues, what kind of tests
24 need to be ran for the day. And depending on the needs of
25 the lab, what queues are high, I'll select one to test; and

1 I'll just go ahead right down the row, the oldest cases
2 first. I'll grab a handful of them and select those for
3 testing.

4 Q. All right. And do you -- how do you associate that
5 test with yourself? I mean in the computer system.

6 A. So in the computer system I can assign my name to that
7 task, and that takes it out of the testing queue.

8 Q. Okay. Do you have to scan anything, scan your badge or
9 enter a PIN, anything like that?

10 A. So whenever I go into the laboratory and I retrieve the
11 sample for testing, I take it out of our toxicology storage
12 refrigerator.

13 I will then take it to the computer and scan the
14 tube and my badge and input my PIN to electronically
15 transfer it into my custody.

16 Q. All right. And the tube that contains blood, in this
17 case what we're talking about is -- does that have a unique
18 identifier on it?

19 A. Yes. All of our tubes will have unique identifying
20 numbers.

21 Q. Okay. And so, now, is that unique identifier
22 associated with you and your name so that we marry up the
23 test with the chemist? Is that right?

24 Or the substance that's being tested with the
25 chemist.

1 A. I'm not quite sure what you're asking. The case itself
2 will have the unique number, an IFS number; and then --
3 that's the case number. And then each tube is also
4 numbered.

5 Q. Okay.

6 A. Did that answer your question?

7 Q. Sure.

8 So the tube has a sub number on it; is that right?

9 A. Yes.

10 Q. So there may be multiple tubes in a particular case?

11 A. Yes. Usually there are.

12 Q. All right. And then now the -- does the computer --
13 once you've scanned your badge and entered your PIN, does
14 the computer recognize that you're the person who is
15 testing the substance?

16 A. Yes.

17 Q. And so --

18 A. It -- my name is assigned in the computer system as
19 being on that test, and my name is then next to the tube.
20 If you were to look up the location of the tube, my name
21 would appear next to it.

22 Q. Okay. And so then are reports eventually prepared
23 regarding your results?

24 A. Yes, they are.

25 Q. Okay. Once you run the test -- and we'll get into some

1 more detail in a little bit about the test itself. But
2 once you run the test, is anything done to confirm your
3 tests?

4 A. If we have a positive result for anything, that sends
5 the case back for further testing. We always have a
6 confirmation test whenever there is a positive result.

7 Q. Every time?

8 A. Yes.

9 Q. Okay. And then does it go through any sort --

10 A. I'm sorry. Can I clarify something?

11 Q. Yes, certainly.

12 A. On very rare occasions, with limited specimen, we may
13 only test once; but we would have a clarifying statement on
14 the report saying, "Due to limited specimen, the results
15 are only reflective of one analysis."

16 Q. Okay. So after there is a test and then a confirmatory
17 test, does it go through any supervisory or next-level
18 review?

19 A. Yes.

20 After the analysts have performed the testing,
21 before the case is finalized, it goes to a technical
22 reviewer; and they will review the whole case as a whole,
23 all of the data contained in it, before the report is
24 finalized.

25 Q. Okay. And we kind of jumped right into the middle of

1 it and I apologize, but where do most of your samples come
2 to you from?

3 A. The majority of the samples that we test in the lab are
4 medical examiner cases from autopsies.

5 Q. So they refer the blood over to be tested by you and
6 your lab?

7 A. That's correct.

8 MR. COMBS: If we could pull up Government's
9 Exhibit 98, page 1. It's previously been admitted.

10 And zoom in on the first probably third.

11 BY MR. COMBS:

12 Q. Looking right here, this Southwestern Institute of
13 Forensic Sciences, is that where you work?

14 A. Yes, it is.

15 Q. But you don't work in the office of the medical
16 examiner, right, or do you?

17 A. It's the same building. I'm in the forensic chemistry
18 department on the third floor of that building.

19 Q. Okay. Same building.

20 And you said earlier that there was -- the tubes
21 would be assigned -- or a case would be assigned an IFS
22 number.

23 Do you see an IFS number on this autopsy report?

24 A. Yes.

25 Q. Where is that? You can circle on the screen there.

1 A. (Complying.)

2 Q. Okay. So that's the IFS-20-03172, and then it has a
3 "-ME." What does "ME" stand for?

4 A. Medical examiner.

5 Q. Okay. So did you test any samples in that particular
6 case?

7 A. Yes, I did.

8 Q. And what type of substance were you called upon to
9 test?

10 A. So I --

11 Q. Or, I mean, like what type of bodily fluid were you
12 asked to perform a test on?

13 A. There's blood in the case and that's the preferred
14 specimen, so I tested the blood.

15 Q. Okay. And when you tested it -- you said earlier when
16 we were talking about when you assign a case out to
17 yourself or a sample out to yourself, there's tests that
18 have been ordered, right?

19 So do you decide what tests to perform on that
20 particular blood, or does somebody else ask you to perform
21 particular tests?

22 A. So the medical examiner cases almost always have the
23 same standard four tests required. That's an alcohol
24 analysis; an ELISA test; and then two different drug
25 screens, an acid neutral drug screen and the QTOF drug

1 screen which looks for more basic analytes.

2 Q. Okay. And which of those screens did you do?

3 A. I performed the QTOF test.

4 Q. Okay. Explain for the jury. What does -- first of
5 all, what does "QTOF" stand for?

6 A. So QTOF, it's actually -- the full name of the
7 instrument is a liquid chromatography quadrupole
8 time-of-flight mass spectrometer, or LC QTOF MS. But for
9 simplicity, we call it a QTOF.

10 Q. Okay. Is that a fairly sophisticated machine?

11 A. Yes.

12 Q. Does every lab in the country have them?

13 A. No. They're very expensive. So I think it would be
14 ideal for every lab to have it, but they're cost
15 prohibitive.

16 Q. Okay. But your lab is one of the ones that does have
17 it; is that right?

18 A. That's correct.

19 Q. Okay. Could you describe just very briefly what -- how
20 does a QTOF work? What does it do to test the blood?

21 A. Sure.

22 So the sample first has to be prepared to be
23 suitable to put on the instrument. After the extraction
24 and it's prepared, I will place the extracted sample into
25 the LC side, the liquid chromatography side; and it will

1 separate out first the component, the prepared sample.

2 Then it moves on to the second part, the QTOF
3 side; and that's responsible for identifying the components
4 within the sample.

5 So first it will scan a range of molecular masses
6 and stabilize one at a time going through the first part,
7 the quadrupole. It sends it to a collision cell where that
8 molecule is broken apart into pieces, fragments, fragment
9 ions.

10 And then it goes into the time-of-flight tube
11 last, and there the fragments are separated based on size
12 as they go through the tube.

13 They hit a detector, and the fragments and their
14 abundances are plotted on something called the mass
15 spectrum. And that the computer software will use to
16 search a library database of standards to look for a
17 potential match.

18 Q. And you said the QTOF is what you performed in this
19 particular case?

20 A. That's correct.

21 Q. And how many different substances were you looking for?
22 What was kind of the library of substances that you were
23 looking for to see if they were in, in this case,
24 Mr. Seegan's blood?

25 A. We look for approximately 300 different drugs in that

1 test.

2 Q. Okay. And when you performed this test, did you -- out
3 of those 300 drugs, how many of them came up as positive?

4 A. I found only one match, etomidate.

5 Q. Etomidate. And --

6 MR. COMBS: Could we go to Government's

7 Exhibit 98, page 4, please.

8 BY MR. COMBS:

9 Q. And do you recognize that?

10 A. Yes.

11 Q. Okay. Now, where -- circle, if you would, on your
12 screen, using your finger -- on the screen to your right --
13 which one of those tests you performed.

14 A. (Complying.)

15 Q. And that's the "Drug Screen (QTOF) etomidate detected";
16 is that right?

17 A. That's correct.

18 Q. And what does that mean when it says "Item# 005-005"?

19 A. That's the tube number associated with the case. If
20 you look just above, the evidence submitted, there's all
21 the different items. They all have their own sub number.

22 Q. Okay. So this was the -- this tube of Mr. Seegan's
23 blood; is that right?

24 A. That's correct.

25 Q. Okay. And that's the one that you tested using the

1 QTOF machine. And out of several hundred substances you
2 were looking for, one was detected; and that was etomidate?

3 A. Yes.

4 MR. COMBS: Could we go to the next page, please.

5 BY MR. COMBS:

6 Q. And ultimately your results go to a medical examiner;
7 is that right?

8 A. Yes.

9 Q. Go back to the medical examiner who referred the
10 samples to you?

11 A. That's correct.

12 Q. And then they eventually issue a report; is that right?

13 A. Yes.

14 Q. And in this case what was the date of the report?

15 A. The medical examiner report?

16 Q. The medical examiner report. That's right.

17 A. It was April 1st of 2020.

18 Q. Okay.

19 MR. COMBS: May I approach, your Honor?

20 THE COURT: Yes.

21 BY MR. COMBS:

22 Q. And so on April 1st of 2020, the medical examiner's
23 report documents that etomidate was in James Seegan's
24 blood. And that's based on the QTOF test that you
25 performed and the toxicology report that was forwarded to

1 the medical examiner; is that accurate?

2 A. Yes, that is.

3 Q. Okay. Thank you.

4 MR. COMBS: Pass the witness.

5 THE COURT: Cross-examination?

6 CROSS-EXAMINATION OF SARAH HUGHES

7 BY MR. WHALEN:

8 Q. Ms. Hughes, how are you today?

9 A. I'm fine. Thank you.

10 Q. All right. Just so we're clear, so you work for SWIFS,
11 correct?

12 A. That's correct.

13 Q. Okay. And so is that run or controlled by Dallas
14 County?

15 A. Well, we're a fee-for-service lab; so we'll test
16 anything that is provided so long as you pay the fee. But
17 we primarily work with Dallas County.

18 Q. Okay. And just so I understand the testing that you
19 did, you just did the QTOF testing, correct?

20 A. Yes.

21 Q. Okay. And what date, if you can recall, you did that
22 testing?

23 A. February 27th, 2020.

24 Q. Okay. So you did that testing on February 27th, 2020.

25 And did you get that result on February 27th of

1 2020?

2 A. I likely processed it a day later, so it would probably
3 be February 28th that I went through my data.

4 Q. Okay. So you had that result by February 28th of 2020,
5 correct?

6 A. May I reference my case file?

7 Q. Absolutely. If you need to look at your case file to
8 refresh your memory, that's fine.

9 A. Thank you.

10 Q. Okay.

11 A. I don't know exactly when I reported etomidate, but I
12 believe it was the next day. Typically we process in a
13 timely fashion.

14 Q. Okay. And I think you said if you get a positive
15 result, then you retest; is that correct?

16 A. It goes for further testing. That is correct.

17 Q. Okay. Did you -- and who does that further testing?

18 A. Just another analyst. In this case it was another
19 analyst in the lab, Amanda Rausche.

20 Q. Okay. So it is a separate person, then?

21 A. Oh, I'm sorry. No, it could have been me. It's
22 whoever -- we look at the testing queues. Whatever needs
23 to be done for the day, we'll just select it. It's more
24 random.

25 Q. Okay. And then you also talked about that it pushes

1 through this machine and then it compares itself to this
2 library of standards, correct?

3 A. That's correct.

4 Q. Okay. And where do the standards come from?

5 A. Through certified reference materials that the lab has
6 purchased and ran on the instrument to create our library.

7 Q. Okay. And how often do you update the standards to
8 verify that the standard is accurate and a good standard?

9 A. I believe we've only ran them once since we've had the
10 machine.

11 We do rerun every once in a while for different
12 concentrations because the fragmentation abundance might be
13 slightly different at larger or very low concentrations,
14 but typically once.

15 Q. Okay. So when did you-all get the QTOF machine?

16 A. I believe it was around 2017 or 2018 is when we got our
17 first QTOF.

18 Q. Okay. And so then -- just so I understand it because
19 I'm not very good at science. When you get the machine,
20 you run the standards through it, once you get the machine,
21 to make sure it's in good working order, correct? Is
22 that --

23 A. Yes. There is a validation process that we go through
24 and we run the standards, build our library.

25 Q. Okay. And then so how often do you recheck the library

1 to make sure that the QTOF is, one, in good working order
2 but also capable of giving a reliable result?

3 A. So we check our QTOF every day it's ran. We run a tune
4 and a system suitability test.

5 Also with every set that we run, we have
6 calibrators and controls we run. So the very day that I
7 ran in this case, I ran a calibrator that contained
8 etomidate and had an appropriate library match.

9 Q. Okay. And, once again, you got that result on
10 February 28th -- maybe give or take a day, February, maybe
11 March because there's only 28 days of February, around that
12 time, correct?

13 A. Yeah. The data was acquired on February 27th. I
14 probably sat down and processed it on or around
15 February 28th.

16 Q. Okay. And then after you get that data, since it's an
17 ME sample, it then gets forwarded to the medical examiner's
18 office, right?

19 A. Could you repeat the question?

20 Q. Yeah.

21 So you get this result -- you've been tasked with
22 running this blood, correct?

23 A. Correct.

24 Q. Okay. And then you take your results and you send them
25 to Dr. Ogden, correct, or her office?

1 A. After the confirmation?

2 Q. Yes.

3 A. After the technical review, the report when it's
4 finalized, that's when it will be sent to the medical
5 examiner.

6 Q. Okay. And then as far as you know, they'll review
7 that; and then they issue their report, correct?

8 A. As far as I know, yes.

9 Q. Okay. And the report that we saw here was issued on
10 April 1st of 2020, correct?

11 A. Yes.

12 Q. All right. Thank you.

13 MR. WHALEN: I'll pass the witness.

14 THE COURT: Anything additional?

15 MR. COMBS: Yes, your Honor, just briefly.

16 REDIRECT EXAMINATION OF SARAH HUGHES

17 BY MR. COMBS:

18 Q. Ma'am, you said that Amanda Rausche tested the -- did
19 the confirmatory test in this particular case; is that
20 right?

21 A. That's correct.

22 Q. And you used Test Tube Number 5, you said, the vial of
23 blood with Number 5. Did she use the same vial?

24 A. No, she didn't. She tested another vial.

25 Q. Why do you do that? Why do you test a different vial?

1 A. It adds confidence to our results that this is truly in
2 the case, it's nothing by chance, no contamination. It
3 just adds a lot of strength to our data.

4 Q. And she came up with the same results you did; is that
5 right?

6 A. That's correct. She also found etomidate.

7 Q. Okay. Thank you.

8 MR. COMBS: Pass the witness.

9 THE COURT: Anything additional?

10 MR. WHALEN: Nothing further, your Honor.

11 THE COURT: Can the witness be fully excused?

12 MR. COMBS: Yes, please, your Honor.

13 MR. WHALEN: Yes, your Honor.

14 THE COURT: Okay. Ma'am, you are free to leave.

15 Thank you.

16 What's next?

17 MR. FINE: We'll call Detective Brandon Bonner,
18 your Honor.

19 THE COURT: Sir, would you raise your right hand
20 to be sworn in.

21 (The oath is administered to the witness.)

22 DIRECT EXAMINATION OF BRANDON BONNER

23 CALLED ON BEHALF OF THE GOVERNMENT

24 BY MR. FINE:

25 Q. Good afternoon, Detective Bonner. Will you please

1 introduce yourself to the ladies and gentlemen of the jury.

2 THE COURT: Is your mic on? Maybe it died.

3 MR. FINE: There we go.

4 BY MR. FINE:

5 Q. Good afternoon, Detective Bonner. How are you?

6 A. Good afternoon. Thank you. Doing good.

7 Q. Will you please introduce yourself to the ladies and
8 gentlemen of the jury and spell your last name for the
9 court reporter.

10 A. I'm a Carrollton Police detective. Bonner,
11 B-O-N-N-E-R.

12 Q. And I probably gave it away by calling you Detective
13 Bonner, but how are you employed?

14 A. I'm a detective with the City of Carrollton Police
15 Department.

16 Q. How long have you been with the Carrollton Police
17 Department?

18 A. Since 2007.

19 Q. And so let's go back to 2007. How did you become a
20 police officer with the City of Carrollton?

21 A. I worked for a former police department, but I applied
22 with the City of Carrollton and got hired in 2007. I was
23 in previous law enforcement for five years, starting in
24 2002.

25 Q. And was that your first job in law enforcement, in

1 2002?

2 A. Yes, sir.

3 Q. And where was that at?

4 A. So the Dallas Area Rapid Transit Police Department in
5 Dallas.

6 Q. So sometimes called DART as well?

7 A. Yes, sir.

8 Q. And so in order to become a DART officer before you
9 were a Carrollton officer, did you have to attend a police
10 academy?

11 A. Yes, sir.

12 Q. And tell the jury a little bit about what that
13 encompasses.

14 A. It's about six months of training every day, Monday
15 through Friday, classroom and practical studies, learning
16 the law and then, obviously, how to apply it and different
17 investigations and things of that nature.

18 Q. And so as part of your occupation, do you also receive
19 continuing updated education?

20 A. Yes, sir.

21 Q. And when you came over to Carrollton in 2007, what was
22 your position with the Carrollton Police Department?

23 A. I got hired as a patrol officer.

24 Q. And so tell the ladies and gentlemen of the jury.
25 What's a patrol officer do?

1 A. It's basically what you think. It's working the
2 streets, answering -- responding to calls and assisting
3 anywhere needed. But any call that comes in, it's your
4 job.

5 Q. And after you were a patrol officer, what was your next
6 spot with Carrollton?

7 A. I applied and was accepted into the criminal
8 investigations division as a detective.

9 Q. And what year was that?

10 A. It was in 2015 or 2016. I don't recall exactly the
11 year.

12 Q. All right. And so as a detective in the criminal
13 investigation unit at Carrollton, what were your
14 responsibilities there?

15 A. For that, would be to investigate cases. We take the
16 initial report that was taken by the officers on the
17 street; and then we would do follow-up investigation with
18 that, just to turn over every rock we could to make sure we
19 got to the bottom of it.

20 Q. And how big an agency is Carrollton?

21 A. Roughly about 160, 170 sworn.

22 Q. And how many detectives do y'all have?

23 A. Currently, I believe it's 16, if I'm not mistaken.

24 Q. And so are you still in the criminal intelligence
25 division?

1 A. Criminal investigations.

2 Q. Criminal investigations.

3 A. Yes, sir.

4 Q. So do y'all -- some agencies, they have specific
5 detectives for homicide or for child abuse or for burglary
6 or for other crimes. How does that work at Carrollton?

7 A. Yes. So our CID unit has multiple different areas, as
8 you've stated. Several detectives may be assigned to
9 crimes against children, some in financial crimes, some in
10 what we call major crimes, which would involve anything
11 from homicide to robberies of that nature, things like
12 that.

13 Q. And is that where you are currently assigned, to major
14 crimes?

15 A. It is.

16 Q. And how long have you been with major crimes?

17 A. For the previous four years, I believe.

18 Q. And during the course of your time with major crimes,
19 have you investigated homicides?

20 A. I have.

21 Q. Do you also go out to scenes of suicides?

22 A. I do.

23 Q. And so tell the jury about that. You know, again, TV
24 and everything like that, you may not think that you'd have
25 a homicide detective go out to a suicide. But why do you

1 guys do that?

2 A. Any death -- normally we will respond on any death, and
3 that could mean especially on a suicide. Again, we're
4 there just to make sure that what we see, what we -- you
5 know, the family may believe or whoever may believe is to
6 be true based off of the evidence we find there at the
7 scene.

8 Q. And so on a suicide case, would a major crimes
9 detective be assigned to that?

10 A. Yes.

11 Q. And so I want to turn your attention to February 19th,
12 2020.

13 Were you on call that day?

14 A. I was not on call that day.

15 Q. And so there was a call that came in about a deceased
16 male at 2114 Cannes Drive in Carrollton, correct?

17 A. That is correct.

18 Q. And that man's name is James Seegan?

19 A. Yes, sir.

20 Q. So you were not on call that day. Were you assigned to
21 that case initially?

22 A. I was not.

23 Q. And so how does that work? Who gets assigned to a
24 case?

25 A. The way that works if it's after hours, which most of

1 our detectives leave around 6:00 p.m. and so -- roughly
2 between 5:00 and 6:00 all our detectives start leaving to
3 go home. And so there is an on-call detective at all
4 times, meaning after hours when there is no longer
5 detectives in the building, if a call comes in, the call
6 will go to that detective who is on call during that week.

7 Q. And do you know who was on call that week?

8 A. It was Detective Duncan.

9 Q. Is that Detective Lauryl Duncan?

10 A. That is correct.

11 Q. And so initially she was assigned to this case. Is
12 that fair to say?

13 A. Yes, sir.

14 Q. And so you -- and we'll get to exactly how you got
15 assigned this case.

16 It occurred in early April; is that correct?

17 A. When I got assigned to it?

18 Q. Yes.

19 A. Yes, sir.

20 Q. I want to talk to you, though, because even though you
21 weren't out there on February 20th, eventually you became
22 the lead detective on this case, correct?

23 A. That is correct.

24 Q. And so as the lead detective, did you go back and
25 review information starting on February 20th?

1 A. I did.

2 Q. And is it fair to say that the Carrollton Police
3 Department y'all's unit in major crimes, you guys work
4 cases as a team as well?

5 A. Very much so.

6 Q. And so when I refer to you or the Carrollton Police
7 Department, it's one and the same; is that correct?

8 A. Yes, sir.

9 Q. And so in a case like this or in any homicide case,
10 would the lead detective do absolutely everything on their
11 own?

12 A. No.

13 Q. Do you rely on each other to assist?

14 A. Yes, we do.

15 Q. And do you communicate with each other and share
16 information?

17 A. Yes, sir, we do.

18 Q. And is that part of your training and experience in
19 order to effectively investigate a major case?

20 A. Yes, sir, that is.

21 Q. So let's go back to February 19th, 2020. A call comes
22 out, unresponsive male. Later find out he died of a
23 gunshot wound; is that correct?

24 A. That is correct.

25 Q. What -- initially were there some suspicious

1 circumstances out there at the scene?

2 A. There were some things that were odd at the scene, yes,
3 sir.

4 Q. And tell us about those circumstances.

5 A. Well, from learning from Detective Duncan, some of the
6 initial things that they observed that were odd was the
7 positioning of the firearm that was resting in his hand.

8 And then as well as there was a typed note,
9 believed to be a suicide note, left next to him. It just
10 appeared a little odd.

11 And as well as there was some Nest camera
12 activation for the home.

13 Q. And so was the name Keith Ashley mentioned right from
14 the beginning?

15 A. Yes, it was.

16 Q. And why was that? How did the name Keith Ashley come
17 up?

18 A. On the suicide note itself. His name was in the
19 suicide note.

20 Q. And do you see Keith Ashley in the courtroom today?

21 A. Yes, I do.

22 Q. If I -- or if this is Chair 1, 2, 3, and 4, which chair
23 is Mr. Ashley sitting in?

24 A. Chair 4.

25 MR. FINE: Let the record reflect the witness has

1 identified the defendant, your Honor?

2 THE COURT: The record will so reflect.

3 BY MR. FINE:

4 Q. So, Detective Bonner, going back, initially Keith
5 Ashley's name pops up. It's in the alleged suicide note.

6 And the Ring -- you talked about the Ring camera
7 footage from the doorbell, right?

8 A. Yes, sir. There was Nest doorbell footage, and I
9 believe Detective Duncan and other officers that responded
10 could see the decedent's phone did have activation on it.

11 Q. And through that video -- you've reviewed that video as
12 well, correct?

13 A. I have.

14 Q. Who enters the house at 9:31 a.m.?

15 A. Mr. Keith Ashley.

16 Q. And who leaves the house at 10:21 a.m.?

17 A. Keith Ashley.

18 Q. And who then returns to the house at 10:37 a.m.?

19 A. Keith Ashley.

20 Q. And who leaves at 10:40 a.m.?

21 A. Keith Ashley.

22 MR. FINE: And, your Honor, permission to publish
23 Government's 94A followed by B, C, and D at this time?

24 THE COURT: Go ahead.

25 MR. FINE: Let's start with 94A.

1 Actually, I apologize. 93A, B, C, and D. We'll
2 get to 94 next. So start with 93A.

3 (Video presentation to the jury.)

4 MR. FINE: And if we could go to 93B, please.

5 (Video presentation to the jury.)

6 MR. FINE: And now to 93C, please.

7 (Video presentation to the jury.)

8 MR. FINE: And let's stop for a moment before we
9 do 93D.

10 BY MR. FINE:

11 Q. So 93C, that's the defendant arriving back at 10:37,
12 correct?

13 A. Yes, sir.

14 MR. FINE: And let's go ahead and play 93D.

15 BY MR. FINE:

16 Q. This will be him leaving at 10:40, correct?

17 A. Yes, sir.

18 (Video presentation to the jury.)

19 BY MR. FINE:

20 Q. Did you also review the body cam video of the garage
21 camera as well?

22 A. Yes, sir, I did.

23 Q. All right. And on that body cam, can you hear a loud
24 bang at 10:15 in the morning?

25 A. Yes, sir.

1 MR. FINE: Permission to publish Government's 94A
2 at this time, your Honor?

3 THE COURT: Yes, go ahead.

4 BY MR. FINE:

5 Q. And let me ask you this while we're trying to get 94A
6 up and running: What was significant to you in terms of
7 that loud bang at 10:15 in the morning, initially?

8 A. Well, looking at it, there was supposed to be only two
9 people in the home at that time. And then when you see the
10 camera activation and hear that loud noise and then, of
11 course, to learn that -- of Mr. Seegan's death, later I
12 thought it was highly suspicious.

13 Q. And given 93A and B, we know that the defendant was in
14 the home at the time as well; is that correct?

15 A. That is correct, yes, sir.

16 Q. Okay.

17 MR. FINE: Let's try for 94A again.

18 (Audiovisual presentation to the jury.)

19 MR. FINE: Can we play that one more time.

20 (Audiovisual presentation to the jury.)

21 BY MR. FINE:

22 Q. Sort of that -- that loud noise that we hear, correct?

23 A. Yes, sir.

24 Q. It's not easy to hear, but that's the noise that we're
25 talking about?

1 A. That's correct, yes, sir.

2 Q. And so we have all that information early on from
3 February 19th. The case at that point, was it -- in terms
4 of the Carrollton Police Department, was it closed as a
5 suicide?

6 A. It was not.

7 Q. Tell the jury what happened from basically
8 February 19th until April 1st, and then we'll talk about
9 April 1st.

10 A. Detective Duncan was still the lead detective with that
11 case at that time, and she was looking at all the evidence
12 that she could at that moment while still awaiting autopsy
13 results and other evidence to come in.

14 And so while we discussed the case, I was not the
15 lead on it; but we were still -- some suspicious things
16 that she observed and discussed with other detectives.

17 Q. And so is it fair to say that it was an open case at
18 that point?

19 A. Yes, it was.

20 Q. And so on April 1st -- what happened on April 1st?

21 A. I believe that is the day the autopsy results came back
22 to the police department.

23 Q. And within those results was there a toxicology report
24 as well?

25 A. Yes, sir.

1 Q. And what was found in the toxicology report?

2 A. A drug called etomidate.

3 Q. And at that point did you know much about etomidate?

4 A. I did not.

5 Q. Did your department look into what etomidate was?

6 A. We did right away, yes, sir.

7 Q. And through your research, what did you find out about
8 etomidate?

9 A. We learned it was like a fast-acting anesthetic
10 commonly used by emergency medical professionals in the
11 emergency room or on an ambulance, stuff like that. And we
12 learned that it was usually -- I have some friends that are
13 firefighters and EMS, and they described it as something
14 they would give to a patient to make them unconscious
15 whenever they were going to do intubation or something of
16 that nature.

17 Q. So it's something out in the field a paramedic if they
18 need to do an emergency procedure to put somebody under
19 real quick?

20 A. Yes, sir.

21 Q. Is it your understanding it's fast-acting?

22 A. Yes, sir.

23 Q. Sort of in and out of your system quick and -- quick
24 and dirty, basically?

25 A. Yes, sir.

1 Q. All right. Now, at that point, when the Carrollton
2 Police Department gets the autopsy result, they see the
3 toxicology with etomidate, did you become more involved in
4 the case?

5 A. Yes, sir. I was -- sorry.

6 Q. I was going to say, in fact, did you become the lead on
7 the case?

8 A. Yes, sir. When that evidence came in, we determined
9 this was, again, highly suspicious; and so then the case
10 was then assigned to me as the lead.

11 Q. So let me ask you this: At that point you are now the
12 lead detective on this case. Was there any evidence in the
13 home of Mr. Seegan of etomidate?

14 A. There was not.

15 Q. Any syringes?

16 A. No, sir.

17 Q. Needles?

18 A. No, sir.

19 Q. And did you find out through your research how
20 etomidate would be administered to somebody?

21 A. It would be through an injection, intravenously.

22 Q. Okay. There is not a pill form of etomidate. The only
23 way you can do it is to push it through an IV, correct?

24 A. As I understand it, yes, sir.

25 Q. So now you have this drug in Mr. Seegan's system that

1 certainly doesn't look like it fits. Is that fair to say?

2 A. That is correct.

3 Q. You have no evidence of it in the home at all.

4 A. Correct.

5 Q. Is it a street drug?

6 A. I've never seen it on the streets in my 20 years.

7 Q. Something that people buy and sell, black market,
8 anything like that?

9 A. No, sir. I've never heard of etomidate until that day,
10 never heard of it sold anywhere like that.

11 Q. And so we had mentioned Keith Ashley before, the
12 defendant in this case. You knew the name. You knew he
13 was in the home. Did you start looking at him as a person
14 of interest at that point?

15 A. We did.

16 Q. And did you find out a little bit more about the
17 defendant's background?

18 A. We did.

19 Q. And tell the jury a little bit about his medical
20 background and what piqued your interest with that.

21 A. We discovered that he was previously employed with an
22 air medical, like a helicopter medical team called PHI.

23 And then we also learned that he was -- either
24 currently or just before that, he was employed as a nurse
25 at a hospital in Dallas.

1 Q. And so let's talk about in terms of him being a
2 paramedic. Did y'all actually request some records of his
3 and find out that on a test that he had taken, a paramedics
4 test, that there were questions on there about etomidate?

5 A. That is correct, yes, sir.

6 MR. FINE: And, your Honor, permission to publish
7 Government's 113?

8 THE COURT: Go ahead.

9 MR. FINE: Starting on page 11.

10 So if we could zoom in on the bottom. There we
11 go.

12 BY MR. FINE:

13 Q. So Question 57, "What is the correct dosage of
14 etomidate," correct?

15 A. Yes, sir.

16 MR. FINE: And if we go back to the first page on
17 Government's 111 (*sic*).

18 Just the first page.

19 113. I'm sorry.

20 BY MR. FINE:

21 Q. Whose name is on that SKYMED Flight Team Academy Final
22 Test?

23 A. K. Ashley.

24 Q. And is that Keith Ashley?

25 A. Yes, sir.

1 Q. All right.

2 MR. FINE: And if we could go to page 19, please,
3 on Government's 113.

4 And Question 7.

5 BY MR. FINE:

6 Q. Choice D, does that also mention etomidate?

7 A. Yes, sir, it does.

8 Q. All right.

9 MR. FINE: And then looking at page 22 as well.

10 BY MR. FINE:

11 Q. And again "What is the correct dosage of etomidate,"
12 correct?

13 A. Yes, sir.

14 Q. So you now have the defendant who was in Mr. Seegan's
15 home, you have etomidate in the system of Mr. Seegan, and
16 you have the defendant who has some knowledge of etomidate,
17 correct?

18 A. That is correct.

19 Q. And so is this starting to build a little bit in your
20 case?

21 A. Yes, sir, it is.

22 Q. And, in fact, did you find out later on that the
23 defendant had actually checked out etomidate from City
24 Hospital where he worked on December 17th, 2019?

25 A. Yes, sir.

1 Q. And so -- now, listen, we're not going to tell the jury
2 that you know for sure that that etomidate was used to
3 inject Mr. Seegan; is that fair?

4 A. True. Correct.

5 Q. But you've got somebody who now has checked it out, who
6 knows how to use it, who was in the home, right?

7 A. Yes, sir.

8 Q. And in terms of being the lead detective on this case
9 or any detective in a major crime, is it important to
10 continue to build your case that way?

11 A. It is, to follow the evidence, yes, sir.

12 Q. And that's what I was going to say next. Do you go
13 where the evidence takes you or where you want to go?

14 A. You follow the evidence.

15 Q. And so in this case are you following the evidence at
16 this point?

17 A. Yes, sir.

18 Q. And where is the evidence leading you?

19 A. It was all leading to Mr. Ashley.

20 Q. And so at that point did you just stop and say, "Well,
21 it had to be him. He murdered Mr. Seegan"; or did you
22 continue to investigate?

23 A. We continued much further with the investigation.

24 Q. And so did you look in Mr. Seegan's phone and find a
25 calendar entry for 9:00 a.m. on February 19th, 2020?

1 A. Yes, sir, we did.

2 Q. And what did that calendar entry say?

3 A. It stated, "Keith blood."

4 Q. And so what did you take that to possibly mean?

5 A. My theory was that -- once we learned that Mr. Ashley
6 had sold life insurance to Mr. Seegan in a large amount, we
7 learned that normally when a life insurance policy is that
8 large, that someone has to have a --

9 MR. WHALEN: Your Honor, I'm going to object. It
10 calls for -- based on hearsay.

11 MR. FINE: Your Honor, it goes to the course of
12 the investigation and the steps that he took.

13 THE COURT: Overruled.

14 A. Again, our theory was based of that, again, him selling
15 him the large life insurance and that with a large life
16 insurance policy we have learned that it is normal custom
17 to get a physical exam done either yearly or every other
18 year to keep that policy current. And then part of that
19 physical would be a blood draw, you know, examination of
20 the blood.

21 BY MR. FINE:

22 Q. And through your review of the background of the
23 defendant, do you believe that he would have had the
24 expertise to draw blood?

25 A. Yes, sir.

1 Q. And so the defendant having that expertise to draw
2 blood, is it fair to say that in order to draw blood, you
3 need to access a vein?

4 A. Yes, sir.

5 Q. And in order to inject etomidate into somebody, you
6 also need to access a vein, correct?

7 A. Yes, sir.

8 Q. And so drawing blood, you pull out. Etomidate, push
9 in.

10 A. That's correct.

11 Q. And through your investigation, did it seem like
12 Mr. Seegan trusted the defendant?

13 A. It did.

14 Q. Did it seem like they, at least from Mr. Seegan's
15 standpoint, were friends?

16 A. Yes.

17 Q. And you mentioned that he had bought financial products
18 from the defendant, correct?

19 A. Yes, sir.

20 Q. And tell the jury a little bit about -- you mentioned
21 the life insurance. What happened with the life insurance?

22 A. We observed that -- again that Mr. Ashley sold
23 Mr. Seegan life insurance, and I believe the amount was
24 initially -- eventually around 2.4 million, somewhere in
25 there. I know there was \$2 million roughly.

1 And that also Mr. Ashley was listed as the
2 executor of his will and that -- and if Mr. Seegan were to
3 pass, the life insurance would go to the trust, which at
4 that point Mr. Ashley would be the executor of that as
5 well; so he had access to that money.

6 Q. And so he wouldn't be the beneficiary; but as the
7 executor, he would have access and control over the money?

8 A. That is correct.

9 Q. And even though motive is not something that
10 necessarily -- you don't -- every murder case you don't
11 find motive. Is that fair to say?

12 A. That's true.

13 Q. In this case did that start developing a potential
14 motive for you?

15 A. It did.

16 Q. And at this point did you go back and review the
17 doorbell camera again? Did you start looking at it more
18 closely?

19 A. We did.

20 MR. FINE: And so if we could -- permission to
21 publish Government's 93A through D again.

22 THE COURT: Go ahead.

23 BY MR. FINE:

24 Q. And so Detective Bonner when we pull up 93A --

25 MR. FINE: We can start with that.

1 (Video presentation to the jury.)

2 MR. FINE: And if we could just pause it right
3 there.

4 (Video presentation paused.)

5 MR. FINE: That's actually the perfect spot.

6 BY MR. FINE:

7 Q. What is this on the defendant's back?

8 A. It's a backpack.

9 Q. Okay. In terms of him walking up to the door, do you
10 notice anything unusual or strange about how he is walking
11 up to the door in 93A?

12 A. In this video he appeared very calm and casual and not
13 in a hurry.

14 Q. Okay. And this is at 9:31 a.m.?

15 A. Correct.

16 Q. And we know that Mr. Seegan has an entry for a
17 9:00 a.m., "Keith blood," correct?

18 A. That's correct.

19 Q. All right.

20 MR. FINE: And if we could continue publishing
21 93A.

22 (Video presentation resumed.)

23 BY MR. FINE:

24 Q. And so looking at 93A, he rings the doorbell, correct?

25 A. Yes, sir.

1 Q. It appears he waits for somebody to answer the door.

2 And who do you believe that person was that answered the
3 door?

4 A. I believe that was Mr. Seegan.

5 Q. And does it appear they had a friendly interaction and
6 he went into the house?

7 A. It does.

8 Q. Okay.

9 MR. FINE: Let's publish 93C, which will be the
10 second entry, at 10:37 a.m.

11 (Video presentation to the jury.)

12 MR. FINE: Pause real quick.

13 (Video presentation paused.)

14 BY MR. FINE:

15 Q. Do you notice anything different about the defendant at
16 this point?

17 A. I believe he is moving a step faster and possibly not
18 carrying his backpack as well.

19 Q. And what about where he's parked?

20 A. This time he's directly in front of the home.

21 Q. And does it appear he's walking faster?

22 A. Yes, sir.

23 Q. Okay.

24 MR. FINE: Let's go ahead and continue with 93C.

25 (Video presentation resumed.)

1 BY MR. FINE:

2 Q. And so, Detective Bonner, as the lead detective in this
3 case, looking at 93C, what did you notice -- well, did you
4 notice anything that was different from 93A?

5 A. Yes, sir.

6 As well as moving a step faster this time, his
7 hand was noticeably shaking as he was reaching for the
8 doorbell; and he was also touching the doorknob at the
9 exact same time that he was ringing the doorbell and
10 instantly seemed to let himself in.

11 Q. Did it appear that he spoke to Mr. Seegan this time?

12 A. It did not.

13 Q. Did it appear that he waited for somebody to answer the
14 door?

15 A. It did not appear so.

16 Q. Did it appear that he knew that the door was unlocked?

17 A. It appeared he did know that.

18 MR. FINE: And if we could play 93B now, which is
19 the exit -- the first exit at 10:21.

20 (Video presentation to the jury.)

21 BY MR. FINE:

22 Q. So, Detective Bonner, looking at 93B, what were your
23 observations about this exit?

24 A. Again, like he was a step faster than when he initially
25 arrived; and then he also -- we noticed that when he

1 arrived, he walked along the sidewalk and then the walk
2 path up to the door. And as he's leaving, he kind of takes
3 a quick cut across the grass to get to his vehicle.

4 Q. What about in terms of how he closes the door? Does he
5 appear to say good-bye to anybody?

6 A. He does not.

7 Q. Does he appear to be rushing to leave?

8 A. I wouldn't call it rushing, but he seems to be leaving
9 with a little faster step.

10 Q. Okay. And then looking at 93D --

11 MR. FINE: If we could publish that.

12 (Video presentation to the jury.)

13 BY MR. FINE:

14 Q. In 93D is it clear he does not have that backpack that
15 he had when he entered initially?

16 A. That is correct.

17 Q. And is he even quicker in terms of closing the door
18 behind him?

19 A. Yes, sir.

20 Q. Does he appear to be saying good-bye to anybody or any
21 good wishes or anything like that?

22 A. He does not.

23 Q. All right. Now, we played 94A, which was that noise at
24 10:15 in the morning. You mentioned that that could be
25 significant, correct?

1 A. Yes, sir.

2 Q. And so what did you try to do to figure out what that
3 noise could have been?

4 A. We ran a couple of our own tests inside the home with
5 Mrs. Seegan's permission. We did some tests using a
6 decibel reader and cameras, just four different tests
7 inside the home to see if we could activate the Nest camera
8 with sound alone.

9 Q. And so, essentially, did you try to re-create different
10 scenarios and see if that camera would pick up on sound?

11 A. Yes, we did.

12 Q. And you talked about different calibrations. Did you
13 set the camera to different sensitivities?

14 A. Yes, sir, we did.

15 Q. And did you record that as well?

16 A. We did.

17 Q. Did you -- what sort of noises did y'all try to make?

18 A. We did a slamming of the office door --

19 MR. WHALEN: Your Honor, at this time we're going
20 to object to our previous objection under 702 and -- that
21 it's an experiment and scientific.

22 THE COURT: Okay. Overruled.

23 BY MR. FINE:

24 Q. You can go ahead.

25 A. So, yes, we did four tests, the first one being a

1 slamming of the office door.

2 MR. WHALEN: And, your Honor, we'd object and ask
3 for a running objection to the testimony.

4 THE COURT: I'll grant that.

5 MR. WHALEN: Thank you, your Honor.

6 THE COURT: Go ahead.

7 BY MR. FINE:

8 Q. You can continue.

9 A. So, again, we slammed the office door that Mr. Seegan
10 was found deceased in.

11 We dropped a book of a certain weight, kind of a
12 heavy book, on the floor in that same office.

13 Then we slammed a car door outside of the
14 garage -- the rolltop garage door. We slammed a car door
15 in the driveway to see if any of those would activate the
16 camera.

17 And then we fired the same model handgun and with
18 ammunition into ballistic gel in the same office and same
19 area that Mr. Seegan was found.

20 Q. Same exact-type gun?

21 A. Yes, sir.

22 Q. Same exact ammunition?

23 A. Yes, sir.

24 Q. And --

25 MR. FINE: Permission to approach the witness,

1 your Honor?

2 THE COURT: Yes.

3 BY MR. FINE:

4 Q. In terms of where the garage is located in the home in
5 relation to the office -- looking at Government's 80, where
6 is the garage in relation to the office? Because this is
7 upstairs.

8 A. Correct.

9 I believe it was just below the master bedroom.

10 Q. Okay. So basically just -- not directly below the
11 office but just -- just to the side of it?

12 A. Yes, sir.

13 Q. All right. And so you did all these tests. You
14 mentioned a few different sounds that you tried to make.
15 And eventually you fired a gun as well, correct?

16 A. Yes, sir.

17 Q. And when you dropped the book, did the garage camera
18 pick up?

19 A. It did not.

20 Q. When you slammed the door, did the garage camera pick
21 up?

22 A. It did not.

23 Q. When you -- what else -- what were the other ones?

24 A. Closed the office door.

25 Q. The office door, did it --

1 A. And the --

2 Q. -- pick up?

3 A. -- car door.

4 None of those activated the camera.

5 Q. Did anything activate the camera?

6 A. The shooting of the firearm did.

7 Q. That was the only thing?

8 A. Yes, sir.

9 Q. All right. And you recorded that as well?

10 A. We did.

11 MR. FINE: At this time the government would offer
12 Government's 94B and C.

13 MR. WHALEN: We'd object for the same reasons as
14 to the testimony, your Honor.

15 THE COURT: Okay. Overruled.

16 MR. FINE: Permission to publish Government's 94B,
17 your Honor?

18 THE COURT: Yes, go ahead. And I'll go ahead and
19 admit B and C.

20 MR. FINE: Thank you, your Honor.

21 (Audiovisual presentation to the jury.)

22 MR. FINE: And permission to publish
23 Government's 94C, your Honor?

24 THE COURT: Yes, go ahead.

25 (Audiovisual presentation to the jury.)

1 BY MR. FINE:

2 Q. So, Detective Bonner, after you ran that re-creation,
3 what was your belief in terms of what the sound was that
4 picked up on the garage camera on February 19th?

5 A. It was our belief that it was the firing of the weapon
6 that activated the camera.

7 Q. And so what was the significance of that in the
8 investigation?

9 A. That Mr. Ashley was in the home with Mr. Seegan at that
10 time.

11 Q. And through that, did you believe that you had obtained
12 essentially a time of death?

13 A. We believed so, yes, sir.

14 Q. And what would that time have been?

15 A. At the time of that sound was 10:15, I believe.

16 Q. All right. Now, based on the re-creation, based on the
17 sound, you believe now the time of death is at 9:15 (*sic*).

18 There is only two people in the home at that
19 point, correct?

20 A. At 10:15, yes, sir.

21 Q. Right. And one of them is the defendant?

22 A. That is correct.

23 Q. And the other is Mr. Seegan who is dead?

24 A. That is correct.

25 Q. So we talked about some of the discrepancies in the

1 defendant's behavior entering the Seegans' home at 9:31
2 versus at 10:37 and then leaving as well.

3 Through your investigation did you come to find
4 out if Mr. Seegan generally locked his doors?

5 A. We believe he did lock his doors.

6 Q. And in this case, again through your investigation,
7 upon arrival of the first responders was the front door
8 locked?

9 A. I don't recall, as I didn't initially respond to the
10 scene, if they were met with locked doors or not.

11 Q. The backpack that the defendant had on him the first
12 time in and then leaving, did you find out anything
13 significant about that backpack?

14 A. We learned later on that he normally did keep a firearm
15 in that backpack.

16 Q. And subsequently -- and we'll go through the timeline.
17 But eventually did you execute a search warrant on the
18 defendant's home?

19 A. We did.

20 Q. And did you actually find that backpack?

21 A. Yes, we did.

22 Q. And what was inside of the backpack?

23 A. Another firearm.

24 Q. And was that consistent with the information that you
25 received that he always had a firearm in that backpack?

1 A. Yes, sir.

2 Q. And if you were wanting to knock somebody out with
3 etomidate, you would have to have a vial of etomidate,
4 correct?

5 A. Yes, sir.

6 Q. And something -- a strap and something to inject the
7 etomidate with; is that --

8 A. That's correct.

9 Q. And could those have fit into a backpack as well?

10 A. Yes, sir.

11 Q. In fact, as you went back and looked at crime scene
12 photos -- is that part of the investigation as well?

13 A. Yes, sir.

14 Q. And so even though you weren't at the scene, you have
15 access to photos. And did you go back and look at crime
16 scene photos?

17 A. I did.

18 Q. And looking at the crime scene photos, did you find
19 something on Mr. Seegan's left arm, sort of in the crux of
20 his arm, that you believed was consistent with a puncture
21 mark?

22 A. I did.

23 MR. FINE: And permission to publish
24 Government's 79, page 29 at this time, your Honor?

25 THE COURT: Go ahead.

1 BY MR. FINE:

2 Q. And Detective Bonner, you can actually draw on the
3 screen. If you could circle what you believe to be a small
4 puncture mark.

5 A. (Complying.)

6 Q. And is it your belief that is consistent with the area
7 of the arm that if somebody were wanting to draw blood,
8 that they would potentially go into?

9 A. Yes, sir.

10 Q. And did you also believe -- is it fair to say, you
11 know, crime scene photos, sometimes things come out easier
12 to see than other times?

13 A. That's correct.

14 Q. Did you ever see anything that looked like a potential
15 strap mark on Mr. Seegan's left arm as well?

16 A. We did.

17 Q. And looking at Government's 79 --

18 MR. FINE: Let's go to page 25, please.

19 BY MR. FINE:

20 Q. So let's talk about this photo. Did this photo have
21 significance to you in your investigation?

22 A. It did.

23 Q. And tell the jury why.

24 A. The way that the firearm was resting in his hand and
25 also the design of the chair to where he is located, it is

1 my belief that if he would have fired the shot himself, A,
2 the gun would have likely possibly fallen out of his hand
3 and, B, if it did not, his arm would have instantly come
4 down, straight down, and it would have missed -- I mean, he
5 had to miss the desk; and then it was tucked up underneath
6 the armrest. We thought that would be highly unlikely to
7 happen if he were to have shot himself.

8 Q. So what did it look like to you had happened?

9 A. It looked like the gun was placed there after he was
10 shot.

11 Q. And in your investigation of the defendant, did you
12 find that he had a law enforcement background?

13 A. We did.

14 Q. And in law enforcement background, part of it, did he
15 attend a police academy?

16 A. That's correct.

17 Q. And as part of essentially any police academy in the
18 state of Texas, do you receive basic crime scene
19 investigation techniques and education?

20 A. We do.

21 Q. And zooming back out, talk to us about the placement of
22 the chair. Do you find anything significant with that?

23 A. Yes, sir.

24 Also after learning about the possible blood draw
25 or pushing of etomidate, he was -- we noticed he was seated

1 off to the side of the desk; and we believed it was also in
2 a position that he could have sat his arm out as if one
3 were to donate or give blood or to receive an injection.

4 Q. And would that be consistent with the left arm puncture
5 wound that you saw?

6 A. That is correct.

7 Q. And this little seat right here that I'm circling, do
8 you find any significance with that?

9 A. Just that it was pushed back underneath. We did not
10 know exactly where it belonged in the office beforehand,
11 but it was possibly seated in a position right where
12 someone would be seated as if they were administering or
13 giving a blood draw.

14 Q. And so you -- have you had your blood drawn before?

15 A. Yes, sir.

16 Q. And somebody sits down, right? They tie off the little
17 thing and they take your blood, right?

18 A. That's correct.

19 Q. And so looking at this photograph here, does that seem
20 consistent with that scenario where somebody is going to
21 take somebody's blood like that?

22 A. It does.

23 Q. Does it seem -- you've attended how many suicides, do
24 you think?

25 A. Too many to count. I would say a hundred, I don't

1 know, roughly. It's been a lot.

2 Q. And does this strike you, just looking at the crime
3 scene photos, as any other suicide that you've seen?

4 A. No. With all the things we see, no, it does not look
5 exactly like other suicide scenes.

6 Q. Now let's talk about Mr. Seegan's phone as well. We
7 talked about an extraction that was done on the phone.
8 Through that, were you able to figure out when his last
9 step or last movement was?

10 A. We did.

11 Q. And was that at approximately 9:33 and 41 seconds?

12 A. Yes, sir.

13 Q. And did you also see, about 9:32, that Mr. Seegan
14 climbed a flight of stairs?

15 A. That's correct.

16 Q. And would that be consistent with the defendant showing
17 up at 9:31, Mr. Seegan greeting him, going upstairs, and
18 then being seated at that chair or in that office?

19 A. That's correct.

20 Q. And was there a call that also came in at about 9 -- a
21 call that was made about 9:42 in the morning?

22 A. Yes, sir.

23 Q. And was there any activity at all on Mr. Seegan's cell
24 phone after 9:42 in the morning?

25 A. No, sir, I don't believe so.

1 Q. Did the defendant text him multiple times after 9:42?

2 A. Yes, he did.

3 Q. Did he try calling him multiple times?

4 A. Yes, he did.

5 Q. And so what did you take -- what did you make of that,
6 of the texts and calls from the defendant to Mr. Seegan
7 after his death?

8 MR. WHALEN: Objection, calls for speculation.

9 THE COURT: Overruled.

10 If you can answer.

11 A. At that time of the investigation, once we were that
12 far along, it was our belief that it was an attempt to show
13 that he was -- that he cared, but just to give that image.

14 BY MR. FINE:

15 Q. And so through the course of the investigation, do you
16 believe that the crime scene was staged?

17 A. We did.

18 Q. Do you believe that the defendant, through various
19 areas of expertise, would have the ability to stage a scene
20 like that?

21 A. We did.

22 Q. You mentioned the note that was found next to
23 Mr. Seegan.

24 MR. FINE: And permission to publish
25 Government's 86 which is that note, your Honor?

1 THE COURT: Go ahead.

2 BY MR. FINE:

3 Q. Now, Detective Bonner, looking at this note -- and if
4 you could go ahead and read it to the jury.

5 A. Sure. "Dida, I have been struggling for a while. My
6 dad dies years ago and my brother killed himself last year.
7 My best friend died, that I found dead in his house. I
8 want you to love Josh with all your heart. I can not take
9 this pain anymore. My last friend Keith Ashley will help
10 you with" -- the phone number. "I love you."

11 Q. And through the course of your investigation, was this
12 the type of note that Mr. Seegan would have written?

13 A. Not at all.

14 Q. Did it sound like something he would have written?

15 MR. WHALEN: Objection, calls for speculation.

16 THE COURT: Yeah, rephrase the question.

17 BY MR. FINE:

18 Q. Through your investigation, in talking to friends and
19 family of his and his wife, did this seem like something
20 that Mr. Seegan would have written?

21 A. It did not.

22 Q. Did it also strike you odd that it was typed?

23 A. It did.

24 Q. Through your investigations into suicide, do you see
25 many typewritten notes like this?

1 A. We do not.

2 Q. Do you see -- does every suicide, or every suicide
3 you've gone to, is there even a note?

4 A. There's -- no, there's -- not at every one.

5 Q. Okay. And looking at this note and seeing that it was
6 printed, did y'all then try to figure out where it was
7 printed from?

8 A. We did.

9 Q. And were you able to form a conclusion on where the
10 letter was printed from?

11 A. We could not find a definite on where exactly that
12 document itself came from.

13 Q. Do you believe you did everything you could to find out
14 that answer?

15 A. Yes, we did.

16 Q. Did you send the printer to be tested?

17 A. We did.

18 Q. Did you send the computer as well?

19 A. We did.

20 Q. Now, the computer itself showed a command being sent to
21 the printer; is that correct?

22 A. That is correct.

23 Q. And do you remember what time that command was?

24 A. I believe it was two minutes after the loud noise. I
25 believe it was at 10:10, if I'm not mistaken.

1 Q. And if -- again, based on your investigation, if the
2 time of death was 10:15, would it have been possible for
3 Mr. Seegan, who is dead, to print something at 10:17?

4 A. No, sir.

5 Q. And so if he didn't print it at 10:17, who else is in
6 the home at that time?

7 A. Mr. Ashley.

8 Q. And so through your investigation, did you end up
9 finding a note on the defendant's cell phone?

10 A. We did.

11 MR. FINE: And, your Honor, permission to
12 publish -- actually, I don't think we've offered it. We
13 would offer Government's 128A and B.

14 MR. WHALEN: I think it's already in.

15 MR. FINE: Is it?

16 THE COURT: 128A and B I believe are --

17 MR. FINE: Are they in?

18 THE COURT: Let me double-check with my staff.

19 Yeah, we both have them --

20 MR. FINE: Are they in? Okay. Permission to
21 publish 128A?

22 THE COURT: Yes, go ahead.

23 MR. FINE: Actually, can we publish 128B?

24 You don't have that?

25 Permission to approach the witness, your Honor?

1 THE COURT: Yes.

2 MR. FINE: Your Honor, permission to publish 86 as
3 well?

4 THE COURT: Yes, go ahead.

5 MR. FINE: Thank you.

6 THE COURT: And my question is -- we're almost at
7 the 5:00 hour. Do you want to just do this first thing in
8 the morning?

9 MR. FINE: That -- whatever you want, your Honor.
10 I'm fine with whatever you want.

11 THE COURT: Well, I'm just -- I'll leave it to
12 you. We have, like, four minutes left.

13 MR. FINE: We can -- yeah, we can break for the
14 day.

15 THE COURT: Okay.

16 MR. FINE: Yeah.

17 THE COURT: Very good.

18 So, ladies and gentlemen, we're going to go ahead
19 and just stop for the day. Again, please don't discuss the
20 case among yourself or anyone else. Don't do any outside
21 research. Have a safe drive home. We'll see you back
22 tomorrow. And we'll start back at 9:00, so just be here
23 right before 9:00. Have a good evening.

24 (The jury exits the courtroom, 4:57 p.m.)

25 THE COURT: Anything further from the government?

1 Anything further from the defense?

2 MR. WHALEN: No, your Honor.

3 THE COURT: Okay. See y'all back tomorrow morning
4 at 9:00.

5 (Proceedings adjourned, 4:57 p.m.)

6 COURT REPORTER'S CERTIFICATION

7 I HEREBY CERTIFY THAT ON THIS DATE, OCTOBER 30,
8 2022, THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD
9 OF PROCEEDINGS.

10

11

/s/
12 CHRISTINA L. BICKHAM, CRR, RDR

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